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STATE PAPERS
AND
PUBLICK DOCUMENTS
OF
THE UNITED STATES

FROM THE

ACCESSION OF THOMAS JEFFERSON TO THE PRESIDENCY, EXHIBITING A COMPLETE VIEW OF OUR FOREIGN RELATIONS SINCE THAT TIME.

1808—9.

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"State Papers and Publick Documents of the United States, from the accession of Thomas Jefferson to the Presidency, exhibiting a complete view of our Foreign Relations since that time."

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WILLIAM S. SHAW,
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THE order, in which the documents appear in our volumes, is, in every instance, where the contrary is not mentioned, that in which the government have published them. The papers accompanying a message may fill four or five hundred pages, and may be purposely arranged in a mode different from the chronological, as the several divisions of subjects have rendered necessary. Some of the subscribers have wholly mistaken this subject of the confusion of dates, and have imputed blame to the publishers for following the authentick documents, which they undertook to print precisely as they were issued. In the present volume, on page 406, it is mentioned that certain "documents were not communicated in time to be inserted in the order of date." This is not the note of the present publishers, but of the Congress printers, and we did not think ourselves authorized to alter the original.

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LETTERS

FROM MESSRS. MONROE AND PINKNEY TO MR. MADISON.

[Accompanying President's Message, March 23, 1806, published in the preceding volume.]

LONDON, JULY 25, 1806.

SIR,

You will have been surprised at not hearing from us sooner, on the business confided to us, under the commission with which we are honoured by the President. The delay proceeded from a desire to give you some satisfactory information of our progress in it, which it was not in our power to do. It happened unfortunately, just about the time of Mr. Pinkney's arrival, on the 24th ultimo, that Mr. Fox was taken ill of a dropsical complaint, from which he has not yet recovered, and probably never will. That circumstance opposed to us a serious obstacle, which it was difficult to surmount, even in the first stage. As Mr. Fox was the official organ of the government, we could not approach it in that mode through any other channel; and as he and his friends are believed to be favourably disposed to the objects of our mission, and are strong in the cabinet, it seemed to be hazardous to make any experiment for that purpose which might have a tendency to irritate them. Thus we were kept for some time at a stand. Every necessary step was taken with the department of foreign affairs, without making any advance. At length, through the good offices of Lord Holland, to whom, as the relative of Mr. Fox we presumed we might apply, without giving offence to him or his friends, we obtained our recognition of the king. And we trust now that the door is open, that we shall soon be able to proceed in the business, on which we have to treat, with some suitable organ of the government. We persuade ourselves, if Mr. Fox should

continue unable to act, that some other person will be appointed to meet us in his stead. We have the pleasure to enclose you a copy of the several notes which have passed in this introductory stage of the business.

Our audience of the king took place on the 21st instant. The reception was quite a favourable one. To the assurances which we gave of the friendly policy of the United States towards Great Britain, as particularly exemplified by the present mission, his majesty, in return, expressed himself to be highly satisfied with the proof which that measure gave of that disposition in their government, as that Mr. Pinkney had been selected from among their citizens to be employed in it. His other remarks, though not applicable to the topic of existing differences, were nevertheless of a conciliatory and friendly character.

We beg you to be assured, that we shall continue to exert our best efforts to accomplish the important objects of our mission. Of the actual disposition of this government on that subject, and of the prospect of a satisfactory adjustment, it is not in our power to speak from any recent occurrence. The general view, as founded on the sentiments which have been expressed by those about the government, with whom we have conferred, is favourable. We cannot but believe, that the delay to which we were subjected in obtaining our recognition by the king, ought to be attributed to Mr. Fox's indisposition alone. It is, however, proper to mention, that a negotiation with France is still depending, and that many entertain the expectation, that it will terminate in peace. We are not aware that such an event is likely soon to happen, and we flatter ourselves, even in case it should, that the motive for preserving a good understanding with the United States, in the present situation of the world, is otherwise sufficiently strong with this government to induce it to accede to a fair and satisfactory adjustment of differences with them.

We have received your letter of May 30, and shall not fail to pay due attention to the instruction it communicates.

We have the honour to be, with great consideration and esteem, sir, your very obedient servants,

JAMES MONROE.

WILLIAM PINKNEY.

To Mr. Fox.

LOW LAYTON, JUNE 21, 1806.

MR. MONROE presents his compliments to Mr. Fox, and has the honour to inform him of the arrival of Mr. Pinkney at Liverpool, and to request that he will be so good as to give an order that his baggage and effects may be landed and brought to London. Mr. Monroe presumes that Mr. Pinkney, being in a diplomatic character, will be permitted to proceed on his journey there without the sanction of a passport; should it be necessary, he requests that Mr. Fox will be so good as to send him one.

From Mr. Fox.

STABLE YARD, JUNE 22, 1806.

Mr. Fox presents his compliments to Mr. Monroe, and will be very glad to see him here to-morrow at 12 o'clock.

Mr. Fox is very much obliged to Mr. Monroe for his note informing him of Mr. Pinkney's arrival. He imagines that no passport is necessary for that gentleman to proceed to London. The order respecting his baggage and effects shall immediately be expedited.

To Mr. Fox.

LOW LAYTON, JUNE 23, 1806.

MR. MONROE presents his compliments to Mr. Fox, and regrets that he had not the pleasure of receiving his note of yesterday till so late an hour this day, as to render it impossible for him to comply with his obliging invitation. The hour appointed for him to call in Stable Yard had not only passed, but he concluded that before he could arrive in Downing street, Mr. Fox would have left it and gone to the house of commons. Mr. Monroe will be happy to

wait on Mr. Fox at any other time which may be convenient to him.

Mr. Monroe expects Mr. Pinkney in town to-night. As soon as he arrives, he will have the pleasure to inform Mr. Fox of it, and to request the appointment of an hour when he may have the honour of presenting him to Mr. Fox.

To Mr. Fox.

LOW LAYTON, JUNE 25, 1806.

MR. MONROE presents his compliments to Mr. Fox, and has the honour to inform him of the arrival of Mr. Pinkney in the character of a joint commissioner extraordinary and plenipotentiary from the United States to his Britannic majesty. Mr. Monroe requests that Mr. Fox will be so good as to appoint a time when he may have the honour of presenting Mr. Pinkney to him. He will avail himself of the same opportunity to deliver to Mr. Fox a copy of their joint letters of credence.

From Sir Francis Vincent.

STABLE YARD, JUNE 27, 1806.

DEAR SIR,

MR. FOX has been, and indeed still continues so unwell with severe rheumatism, that it is not in his power as yet to fix a day to have the honour of seeing you and Mr. Pinkney, which I assure you he is very anxious and impatient to do; but as soon as he is able I shall have the honour of informing you. In the mean time Mr. Fox hopes you will have the goodness to excuse this unavoidable delay.

Mr. Fox requests that you will offer Mr. Pinkney his best compliments on his safe arrival. May I request that you would do me the honour to offer mine also?

Believe me, dear sir, your very faithful humble servant,
(Signed) F. VINCENT.

To Sir Francis Vincent.

LOW LAYTON, JUNE 27, 1806.

DEAR SIR,

It is with extreme regret that I heard yesterday of the

indisposition of Mr. Fox, and I beg you to be assured, that I would on no consideration whatever hasten our interview at the expense of his quiet. I shall explain the cause of the delay to Mr. Pinkney, who will, I am satisfied, unite with me in this sentiment. I sincerely hope that his recovery will be rapid, and that I shall soon have the pleasure of seeing him in good health. Accept my acknowledg-
ment for the very obliging expressions contained in your
favour of this date, and believe me to be, with great con-
sideration and esteem, very truly, your most obedient ser-
vant, (Signed) JAMES MONROË.

From Mr. Fox.

STABLE YARD, JULY 15.

MR. Fox presents his compliments to Mr. Monroe, and begs to have the honour of seeing him here with Mr. Pinkney, at 3 o'clock to-day.

From Sir Francis Vincent.

ARLINGTON STREET, TUESDAY EVENING, JULY 15.

MY DEAR SIR,

THE king does not come to town till Monday, on which day you and Mr. Pinkney may certainly be presented to his majesty. Yours ever, and most sincerely,

(Signed)

F. VINCENT.

JAMES MONROË, Esq. &c. &c.

From Lord Holland.

SUNDAY NIGHT, JULY 20.

DEAR SIR,

LORD HOWICK, whom I have seen, will be very happy to be of any use to you, but is not the person who can official-ly present you, on producing your credentials. If you wish to settle the business through him, he will be ready to receive you any time before 12, at the admiralty. Since I saw him, I have written to lord Spencer, who is the regu-lar person on such an occasion to supply my uncle's place, and though my letter went late this night, I hope his an-

swer to it will find you as soon as this. I am sure if time allows, he will be happy to receive Mr. Pinkney and yourself, and present you in form to the king.

My uncle begged me to express his regret at having disappointed Mr. Pinkney and yourself, and feeling his health uncertain, was almost afraid of again fixing an hour; but as you will be in that part of the town, and his best hour is from four to five or thereabouts, perhaps Mr. Pinkney and you will be so good as to call about that time at Stable Yard. Believe me, dear sir, ever your obliged,

(Signed)

HOLLAND.

P. S. If you settle to go to court with lord Spencer, have the goodness to inform lord Howick by a line, as he will otherwise wait for your commands, till past 12 o'clock.

JAMES MONROE, Esq. &c. &c. &c.

From Lord Spencer.

ST. JAMES'S PLACE, JULY 21, 1806.

LORD SPENCER presents his compliments Mr. Monroe, and has the honour to inform him, by desire of Mr. Fox, who is too much indisposed to have it in his power to receive him and Mr. Pinkney this morning, that the king will be at the queen's house to-day, at two o'clock, when, if it will be convenient for Mr. Monroe and Mr. Pinkney to attend, lord Spencer will be very happy to have the honour of introducing Mr. Pinkney to his majesty, for the purpose of delivering his credentials from the United States; and if Mr. Monroe and Mr. Pinkney are desirous of seeing lord Spencer before they go to the queen's house, he will be at his office at Whitehall, at one o'clock, where, if they would have the goodness to call, he will have the honour of receiving them.

To Lord Spencer.

PORTLAND PLACE, JULY 21, 1806.

MR. MONROE presents his compliments to lord Spencer, and begs to inform his lordship, that Mr. Pinkney and

himself will have the honour to wait on him at Whitehall, at one o'clock, at which hour his lordship has been so good as to intimate, that he will be prepared to receive them. Mr. Monroe very much regrets the indisposition of Mr. Fox, but Mr. Pinkney and himself will avail themselves with pleasure of his lordship's obliging offer, to do them the honour of presenting them to his majesty to-day at two o'clock. Although Mr. Monroe is already an accredited minister at this court, yet as he is invested with a new character, being included in the special mission from the United States, he presumes that it will be proper, that he should also have the honour of being presented to his majesty as a party to it. Mr. Pinkney and Mr. Monroe will have the honour of delivering to lord Spencer, a copy of their joint letter of credence at one o'clock.

To Lord Howick.

PORTLAND PLACE, JULY 21, 1806.

MR. MONROE presents his compliments to lord Howick, and begs to assure his lordship, that he is very sensible of his obliging attention in offering, as he is just informed by lord Holland, his good offices to procure Mr. Pinkney and himself the honour of being presented to his majesty to-day, which has been hitherto delayed by the much lamented indisposition of Mr. Fox. Mr. Monroe has the honour to inform lord Howick, that he has just received a letter from lord Spencer, intimating that his lordship will do Mr. Pinkney and himself the honour of presenting them to his majesty to-day. He hastens to give lord Howick this information, in consequence of a suggestion from lord Holland, that lord Howick would be so good as to remain at home till twelve o'clock, for the purpose of receiving them.

From Sir Francis Vincent.

STABLE YARD, JULY 21, 1806.

MY DEAR SIR,

I AM very sorry to be under the necessity of asking you and Mr. Pinkney, whether you should consider it as of

great inconvenience to postpone your presentation to the king till his next coming to town, which will be early next week, as it has not yet been in Mr. Fox's power to announce it officially to his majesty. In the mean time every communication from you and Mr. Pinkney will meet with the same attention as if this ceremony had been gone through; an attention which it will always be the pride of the foreign office to shew to the ministers of the United States, our half countrymen.

And from this delay no detriment will arise to the great cause, as I fear some days must yet elapse before Mr. Fox will be well enough to discuss business; he is, however, better. Pray write me a line in answer to this. I have not written to Mr. Pinkney: will you make my excuse to him, as I am anxious for your getting this soon.

Believe me, dear sir, most truly yours,

(Signed)

F. VINCENT.

JAMES MONROE, Esq. &c. &c. &c.

NOTE. On Friday the 11th, Sir Francis Vincent promised us an interview with Mr. Fox on the 15th, which Mr. Fox invited by his note of that date. We attended at Mr. Fox's house according to appointment, but did not see him, his health not permitting it. On the evening of the same day, sir Francis Vincent wrote the note which bears his name of that date. The arrangement with lord Holland was made on the 20th, for which the circumstance of our dining with him furnished a favourable opportunity. Sir Francis Vincent's note of the 21st was written before he was acquainted with that arrangement.

(Owing to the haste in despatching the original, the copy of the correspondence annexed to it was not so full as that accompanying the duplicate.)

No. 2.

LONDON, AUGUST 11, 1806.

SIR,

It was intimated to us, by sir Francis Vincent, soon after the date of our last, that, as the state of Mr. Fox's health was not likely soon to permit him to attend to us, or

the subjects of our mission, lord Grenville would be asked to communicate with us in his stead ; and sir Francis promised that he would endeavour, without loss of time, to arrange with lord Grenville to that effect.

On the first instant sir Francis informed us, by a note to Mr. Monroe, that lord Grenville had been applied to, and that he would fix an early day for our reception. Believing that we should not make the most profitable use of the opportunity, if we waited for a note from lord Grenville, we determined to write him immediately, and request him to appoint a time for receiving us. He accordingly appointed Monday the 4th, which, on account of an interfering engagement, not at first adverted to, was changed to the day following.

His lordship received us with great cordiality ; but, as we had expected, was not prepared to enter into any formal consideration of the subjects embraced by our commission, which, as the letter of credence had been delivered to the king, and had not been seen by lord Grenville, we thought it advisable to submit to his perusal. He told us that he was at present able to say little more than that his majesty's government was earnestly desirous of giving the most prompt and effectual attention to what we had to propose, and of adjusting satisfactorily whatever was in any degree calculated to disturb the good understanding which ought to subsist between us ; that he had always entertained and acted upon a sincere disposition to cultivate the most friendly connection and intercourse with the United States ; and that he could say for his colleagues, that such was their disposition also : that we were aware that the delay we had hitherto experienced arose entirely from the illness of Mr. Fox, to whose department subjects of this description particularly belonged ; that he himself, having only recently returned to a situation of confidence in his majesty's councils, was, of course, but very imperfectly acquainted with those immediate transactions and discussions, which had a bearing upon the relations of the two countries ; that he could not, therefore, at this mo-

ment, undertake even to converse with us upon them, otherwise than very loosely and informally; but that he should, notwithstanding, be glad to hear from us a statement of the principal points, which it was supposed our negotiation would involve. His lordship added, that, if Mr. Fox should unfortunately continue to be disqualified by indisposition, from attending personally to the affairs of our mission, it would be necessary to receive his majesty's pleasure, whether this important duty should be committed to some other of the secretaries of state, or to commissioners to be specially appointed to treat with us; and that this would not be delayed beyond the actual necessity of the occasion.

The statement which his lordship invited was of course given with as much minuteness as was thought to be prudent; and it drew from him several remarks, some of which, although not very interesting, it may be proper to state.

On the subject of the impressment of our seamen, he suggested doubts (which we endeavoured to remove by suitable explanations) of the practicability of devising the means of discrimination between the seamen of the two countries, within (as we understood him) their respective jurisdictions; and he spoke of the importance, to the safety of Great Britain, in the present state of the power of her enemy, of preserving, in their utmost strength, the right and the capacity of government to avail itself in war of the services of its seamen. These observations were connected with frequent professions of an earnest wish, that some liberal and equitable plan should be adopted for reconciling the exercise of this essential right with the just claims of the United States, and for removing from it all cause of complaint and irritation.

To a very brief sketch of the views of our government, relative to belligerent proceedings in the vicinity of our coasts and harbours, he replied, that there could be no objection on their part to a suitable provision on that head. And as this topick recalled the recollection of cap-

tain Whitby's outrages at New York, his lordship took occasion to say, that, if they had been truly represented, they would meet with the severest censure here; that captain Whitby could not be condemned upon such grave charges, unheard; but that he would return to answer for his conduct.

To what was suggested by us on the subject of contraband, he replied only, that he and Mr. Jay had copied the enumeration, in their treaty, from the British treaty with Sweden.

Upon the commercial subject very little was said on either side. For obvious reasons, it was not proper that we should do more than lead to it in a very general way. On the West Indian branch of it lord Grenville remarked, that he did not feel the difficulties which were supposed by many to belong to it; and that he regretted that the 12th article of Mr. Jay's treaty had not been retained, as it would have prepared the way for the more complete admission of the United States into that trade. We inferred from the little that passed on this point, that lord Grenville looked to a prevailing prejudice here, at variance with his own opinion, as likely to oppose itself to our views.

As the illness of Mr. Fox had hitherto restrained Mr. Monroe from sending to him a note, which he had prepared on the subject of captain Whitby's proceedings, he took the opportunity, afforded by this interview, of asking the opinion of lord Grenville as to the course, which, in reference to that interesting object, would now be most proper, intimating at the same time his own desire, that his communication, delayed thus long by motives of delicacy and respect towards Mr. Fox, should, as soon as possible, be brought under the serious consideration of his majesty's government. Lord Grenville stated his opinion and his wish to be, that the note should be retained for the present.

On the 7th, Mr. Fox underwent the operation of tapping, by which he was much relieved; and his friends have since had great hopes of his permanent recovery.

On the 9th we called on sir Francis Vincent, and stated to him what had passed with lord Grenville. He now assured us that Mr. Fox wished extremely to act in our affairs himself, and the late favourable appearances seemed to justify an expectation that his convalescence would be sufficiently rapid to enable him to indulge that wish. He even went so far as to express his conviction, that, if there was one reason more than another, why Mr. Fox was at this time particularly anxious to remain in office, it was his strong desire to settle personally with us every question relative to our country.

The publick papers will inform you that lord Lauderdale has been sent by this government to Paris, on the subject of peace. According to some opinions, the basis and the terms had been settled by previous correspondence, and his lordship was simply to perform the office of signing a treaty already adjusted. Others have supposed that he has been sent to make the usual experiment; and others again, that, although much has been agreed upon, there are certain points upon which this government has been misunderstood by that of France, which require to be explained by an envoy, and are of course still open.

The terms of M. D'Oubril's treaty are yet unknown, and the treaty itself is in all respects as mysterious as at first.

We need not suggest to you the various conjectures, which it would be possible to form, as to the causes to which it is owing that our negotiation is not yet in train, and as to the probable effect of our mission. We have not been inattentive to what has passed here, and upon the continent; but we are disposed to give credit to the professions of just and amicable views which we have so often heard, and to the precise assurances which have so frequently been given to us, that Mr. Fox's illness alone has suspended our progress. In the actual state of things it would be vain, and probably injurious, and certainly harsh, to be very urgent for despatch. You may be assured, however, that we shall lose no opportunity of fulfilling the

just expectations of our government, with as little delay as possible. We have the honour to be, &c.

JAMES MONROE.

WILLIAM PINKNEY.

JAMES MADISON, Esq. Secretary of State.

[Here follows No. 3, sent as confidential. It is a letter from Messrs. Monroe and Pinkney to the secretary of state, dated 15th August, 1806.]

No. 4.

Extract of a Letter from Messrs. Monroe and Pinkney, dated London, August 21, 1806, to the Secretary of State.

SIR,

WE have the pleasure to transmit you a copy of a note from Mr. Fox of yesterday, which announces the appointment of lords Holland and Auckland to meet us on the subjects which are embraced by our joint commission. We flatter ourselves that we shall enter on this business in the course of a few days, and that we shall be able in a short time afterwards to speak with some confidence of the result. We add with pleasure that we see no reason, at this time, to think the prospect less favourable to a satisfactory one than we have heretofore presumed it to be. Aware of the considerations which urge despatch, we have been and shall continue to be attentive to that object, though it is far from being in our power to promise any thing explicit on that point.

DOWNING STREET, AUG. 20, 1806.

Mr. Secretary Fox presents his compliments to Mr. Monroe and Mr. Pinkney, and he has the honour to inform them that his majesty has been graciously pleased, (Mr. Fox not yet being sufficiently recovered to attend to business of such magnitude,) to appoint lord Holland and lord Auckland to enter with Mr. Monroe and Mr. Pinkney

upon the discussion of all matters now pending between his majesty's government and the government of the United States.

Mr. Fox feels it his duty, in expressing his regret at being unable, at the present moment, to undertake this important business himself, to observe, that his majesty, in this appointment of commissioners, has given a fresh proof of his most anxious and constant desire to bring to a speedy termination all discussions between the two countries, and to form such arrangements as may tend to render perpetual a system of mutual friendship and cordiality so conducive to the honour and interests of both.

Mr. Fox begs Mr. Monroe and Mr. Pinkney will accept the assurances of his high consideration.

From Sir Francis Vincent.

DOWNING STREET, AUGUST 1, 1806.

MY DEAR SIR,

HAVING communicated to lord Grenville, as I told you I would, your and Mr. Pinkney's anxiety to see one of his majesty's ministers, his lordship has desired me to inform you, that he will fix as early a time as he can to have the honour of receiving you. If you will have the goodness to communicate this to Mr. Pinkney, I trust he will dispense with my troubling him with a similar notification.

Believe me ever, dear sir, most truly and sincerely yours,

(Signed)

F. VINCENT.

JAMES MONROE, Esq. &c. &c. &c.

To Lord Grenville.

PORTLAND PLACE, AUG. 2, 1806.

MR. MONROE and Mr. Pinkney present their compliments to lord Grenville, and request the honour of an interview with his lordship, on the interesting subjects which form the object of their special mission, with which they are honoured by their government, to his Britannic majesty. They make this request in consequence of the much

lamented indisposition of Mr. Fox, which has hitherto, and still continues to put it out of his power to meet them on that important business.

From Lord Grenville.

DOWNING STREET, AUG. 2, 1806.

LORD GRENVILLE presents his compliments to Mr. Monroe and to Mr. Pinkney, and will be happy to have the honour of seeing them on Monday next, at one o'clock.

(A similar note sent to Mr. Pinkney.)

From Lord Grenville.

DOWNING STREET, SUNDAY, AUG. 3, 1806.

LORD GRENVILLE presents his compliments to Mr. Monroe and to Mr. Pinkney. Lord Grenville, when he made the appointment for to-morrow at one o'clock, did not recollect an engagement he had in the city, at that hour, and therefore requests to have the honour of seeing Mr. Monroe and Mr. Pinkney on Tuesday, at one o'clock.

(A similar note sent to Mr. Pinkney.)

No. 5.

LONDON, SEPT. 11, 1806.

SIR,

OUR first meeting with lord Holland and lord Auckland took place in Downing street on the 22d of August. After the usual exchange of powers, we stated, at their request, the objects of our mission, and the general nature of the stipulations by which we expected them to be provided for. They took minutes of what was said by us, for the purpose of making their report to the cabinet, and threw out some observations, but of a very loose and inconclusive character, upon several branches of the subject. They resisted, with great earnestness and decision, as an impracticable subject, the claim of indemnity, which we pressed as standing upon unquestionable grounds of justice. They appeared to consider the subject of impressment as extremely delicate and embarrassing, and that of our trade with the

colonies of their enemies as presenting important, although not equal difficulties; and lord Auckland expressed a strong desire, which of course we discouraged, that the former should be suffered to rest upon mere understanding, and find no place in the projected treaty. The best dispositions were, however, professed to arrange every thing upon fair and amicable principles, and nothing was suggested to impair the hope, that the result of our negotiation would be entirely satisfactory. We were told at parting, that an early day would be mentioned for renewing our conferences.

On the 28th we met them again upon their own appointment. We were then told, that the purpose of this interview was to obtain from us an explanation of our views with reference to some of the points upon which we had touched at the former meeting. We were accordingly asked to state precisely what equivalent stipulation for restoring British seamen, leaving their service, we would be disposed to insert in the article relative to impressment. Having ascertained that it was vain to expect their consent to an arrangement on this interesting topick, in which some such provision was not an ingredient, we gave them at length a project upon this point, extracted from Mr. Monroe's instructions of 1804, requesting them, however, to receive it as perfectly extra-official, and combining it, as you will perceive, with the provisions in their most advantageous form, for which it was required as the equivalent. A copy of this paper is among the enclosures. We presumed that this course, while it hazarded nothing, would at least promote despatch, and that the air of frankness which belonged to it would be likely to influence advantageously the temper and character of our discussions upon this and every other question before us.

We were also asked to explain the footing upon which we desired to place the commercial intercourse between the United States and the British European dominions. This we did by intimating, as we had done at the former meeting, that the footing of the most favoured nation, extended to

all the European dominions of his majesty, was, in a general view, the most natural. Their inquiries, however, looked to some precise and equal arrangement of tonnage and imposts, and the countervailing power in Mr. Jay's treaty was slightly mentioned. Without encouraging at this time any discussion on this point, which they did not seem to be prepared or inclined to enter into, we thought it proper to suggest for their consideration the expedient of a mutual abolition of alien duties.

On the impressment subject it was soon apparent, that they felt the strongest repugnance to a formal renunciation or abandonment of their claim to take from our vessels on the high seas such seamen as should appear to be their own subjects; and they pressed upon us with much zeal, as a substitute for such an abandonment, a provision that the persons composing the crews of our ships should be furnished with authentick documents of citizenship, the nature and form of which should be settled by treaty; that these documents should completely protect those to whom they related; but that, subject to such protections, the ships of war of Great Britain should continue to visit and impress on the main ocean as heretofore.

They enforced their preference for this sort of arrangement, in a desultory conversation, by observing, that they supposed the object of our plan to be to prevent the impressment at sea of American seamen, and not to withdraw British seamen from the naval service of their country, in times of great national peril, for the purpose of employing them ourselves; that the first of these purposes would be effectually accomplished by a system which should introduce and establish a clear and conclusive distinction between the seamen of the two countries, which on all occasions should be implicitly respected; that if they should consent to make our commercial navy a floating asylum for all the British seamen, who, tempted by higher wages, should quit their service for ours, the effect of such a concession upon their maritime strength, on which Great Britain depended, not only for her prosperity but her

safety, might be fatal ; that in the most alarming emergency they might thus be deprived, to an extent which it was impossible to calculate, but which could not fail to be great, of their only means of security ; that our vessels might become receptacles for deserters to any amount, even from their military marine, in the ports of neutral states, and when once at sea, might set at defiance the just claims of the service to which such deserters belonged ; that even within the United States it could not be expected that any plan for recovering British deserters could be efficacious, and that, moreover, the plan we proposed was inadequate in its range and object, inasmuch as it was merely prospective, confined wholly to deserters, and in no respect providing for the case of the vast body of British seamen now employed in our trade to every part of the world. To this it was replied, that one of the suppositions, on which much reliance had been placed, was that of an extreme case which was barely possible in fact, and which, if it should happen at all, and redress should not be afforded by the interference of the neutral power, in whose port the unlawful refuge should be attempted, could not be considered as within the spirit of such a provision as we had suggested ; that another of these suppositions ascribed undue importance to the resource in question, which, while it severely oppressed and irritated their friends, could add little to the effective strength of their navy ; that the number of men thus violently taken from our vessels, if American citizens should be deducted, had always been comparatively small ; that if Great Britain should now be admitted (as intended by the plan) to the benefit of our domestic regulations, for apprehending and securing within our country future deserters from her merchant and other vessels, the number to which such a resource could apply, must hereafter be considerably less, and in time be wholly insignificant ; that it would be in their own power to prevent us, by suitable regulations, from carrying their seamen from their own ports, and would become our duty to assist in restoring them, when they should desert,

and be found within our jurisdiction; that there was every reason to believe that this assistance would be as effectual as it was known to be in the case of our own seamen deserting from our own vessels; for that even if it should be admitted that a motive might now be imagined of sufficient power to induce the people of the United States to give shelter and protection to deserting British seamen, it was obvious that this motive arose out of the claim and practice on the part of Great Britain, which it was now proposed to renounce, and would cease with them; that there would moreover be open to this country the fair and reasonable exercise of the right of regaining her own seamen, within her own jurisdiction, as opportunity occurred, in whatsoever vessels they should be found; that impressment upon the high seas, by those to whom that service is necessarily confided, must, under any conceivable guards, be frequently abused, and in its best form cannot fail to generate private animosity and national resentment, and of course to endanger the friendly relations of the two countries; that if it were for no other cause, we should see with deep regret the power of impressment at sea, under any modifications, however plausible, insisted upon; but that it was, besides, impossible that we should acknowledge, in favour of any foreign power, the claim to such a jurisdiction on board our vessels upon the main ocean, as this sort of impressment implied; a claim as plainly inadmissible in its principle, and derogatory from the unquestionable rights of our sovereignty, as it was vexatious in its practical consequences.

Upon the commercial subject we collected that the East India trade would not be likely to give much trouble; but that an open trade to the British West Indies will be obtained, if at all, with great difficulty. Lord Auckland expressed an opinion, that there should be a restriction upon the tonnage, as in the twelfth article of the treaty of 1794, which we told him at once could never be agreed to; and lord Holland spoke of a duty to be imposed by our government upon the importations from their islands, which

would be of sufficient amount to check the exportation of the articles, so imported, to Europe. His idea was, of course, that no part of this duty should be remitted as a drawback, and he wished to comprehend in this plan our importations from enemy colonies, without which it could have no other effect than to force the imports from the British colonies into our internal consumption, and leave the imports from enemy colonies for exportation. We thought it proper to oppose ourselves in a particular manner to the last mentioned application of this plan, and it was not persisted in.

The trade with enemies colonies was still viewed as an embarrassing subject, and continuous voyages, even between neutral European ports and these colonies, were strongly protested against. It appeared to be certain, however, that our opponents would finally agree, that the continuity of the voyages should be held to be broken by the landing of the cargoes in the United States, and perhaps, also, the paying or securing the duties, as heretofore practised. We did not bring into view at this time the distinction, which we mean hereafter to urge, in favour of our commerce with the East India colonies of the other parties to the war.

In the course of this conference lord Auckland renewed a proposal, which he had glanced at in our first interview, that the treaty of 1794 should be made the basis of the present negotiation. This was rejected in such a manner as to obtain for the rejection his entire acquiescence. His lordship, towards the close of the meeting, inquired if Congress had not, at their last session, passed some law affecting their commercial relations with Great Britain. We had been restrained from calling their attention to the act prohibiting, &c. by the apprehension, that, as they could not be supposed to be ignorant of it, we might be thought, by pressing it officiously and ostentatiously into notice, to wish to make use of it as a menace; but we now took occasion to explain, in as conciliatory a manner as was consistent with the complete justification of the

law, its origin, and character. They requested us to give them a copy of the act, and we sent it accordingly the next day.

On the 4th instant, at night, we received from the British commissioners a note upon the subject of the act of Congress, of which a copy is enclosed. It appeared to us, that it would be prudent to found upon this note a request of an immediate interview, in the course of which it might perhaps be practicable to avail ourselves of their anxiety, that a suspension of the act should be pressed upon our government, to advance our negotiation, with reference at least to the most interesting of the topics involved in it. To our note, desiring an interview, lord Holland replied, that he would be glad to see us on the but that lord Auckland, being out of town, would not probably be able to attend. Lord Auckland did not in fact, and we believe could not, attend. We opened this conference with lord Holland by observing, that we had been withheld by considerations which he would easily comprehend, from being the first to mention the act of the American government, which formed the subject of their note, but that it had been constantly present to our minds as making it peculiarly desirable, that we should understand one another, as soon as possible, upon some, if not all of the points in discussion between us, and as presenting the prospect of a dilemma, as the period prescribed for its commencement approached, without finding us forward in our negotiation. After a short vindication of the act, in the course of which we did not omit to represent it in connection with the special mission which grew out of it, as manifesting the friendly sentiments and views of our government towards that of his majesty, we observed, that, relying upon the dispositions which their lordships had constantly avowed, and by which they were evidently animated, to establish between the two countries, by a suitable adjustment of all subsisting differences, the most perfect and lasting harmony, it was our earnest desire to take some effectual step, which should save the honour of

both our governments, for ensuring the suspension which their lordships had recommended; that there might be reason to apprehend that, unless some advantageous change should appear to have taken place in the state of things, which, in the opinion of Congress, required the adoption of the measure in question, it would not easily be abandoned, even for a time; that no such change had taken place, for that all the subjects of complaint which had excited the sensibility of Congress at their last session, and led to the passage of this act, were still as much at large as ever; that it was indeed true that commissioners, in the highest degree acceptable, had been appointed by his majesty's government to treat with us, and that the spirit of justice and amity displayed by their lordships promised the happiest results; but that it was also true, that up to this period it could only be said, as might equally be said of the period when this act was finally past, that negotiations were depending; that we were therefore extremely anxious, when we should transmit their lordship's note to the United States, to be enabled to accompany it with assurances that although much remained to be done, the two subjects of impressment and trade with enemies' colonies would certainly be adjusted to the satisfaction of our government.

Lord Holland told us in reply, that we were aware that the first of these subjects was full of difficulty, and required that the feelings and opinions of many persons should be managed and consulted; that it touched the most delicate and momentous of their national concerns, and called for much inquiry and deliberation; that he hoped it would soon be practicable (and we might be confident that there should be no unreasonable delay,) to submit to us a plan, to which both sides might without reluctance consent; that in the mean time we could state to our government, what was unquestionably true, that those with whom we were treating were diligently and anxiously employed, in endeavours to devise an arrangement which should be convenient and honourable to us, and at the same time

free from improper hazard to Great Britain; that it appeared to him that the actual pendency of the negotiations here (unless their sincerity were distrusted, as he was sure it would not be) would furnish an adequate motive to Congress for merely postponing the commencement of a law, which was originally a very strong measure, and would certainly, if allowed to go into operation at a moment when Great Britain was affording, in the face of the world, an unequivocal demonstration of her wish to remove every ground of misunderstanding between us, acquire a character of extreme harshness; that it was greatly to be lamented that the discussions, in which we were now engaged, had not been sooner begun; but that knowing, as we did, to what cause the delay was to be ascribed, we knew also that it was unavoidable. His lordship mingled with these observations the most amicable assurances, and took an occasion, which a remark from one of us presented, to express his conviction, that the event of a peace between Great Britain and France would be so far from creating any indisposition, or producing any obstacle on the part of this country, to a liberal adjustment with us, that it would rather facilitate that adjustment by removing from some of the topics the peculiar interest and difficulty which the present crisis imparts to them.

After some further efforts on our part to promote the object of this interview, without departing from that tone of conciliation which prudence as well as inclination recommended, we separated; and soon afterwards, we prepared and sent to the British commissioners an answer to their note of the 4th, of which you will find a copy enclosed.

To these details we take the liberty to add our opinion, formed upon a careful view of the whole subject, that it will be proper, upon the meeting of Congress in December, to suspend the act for prohibiting the importation of certain articles of British manufacture, so as to afford farther time for the completion of the negotiations which it evidently presumes, and which are now in train.

The ground which Congress have taken in this just and

salutary measure, we are far from wishing to abandon; but to suspend and to abandon it are very different things. The last would wound deeply the honour of the nation, and prostrate the character of the government; but the first is in perfect conformity with the spirit and purpose of the law, and, while it would furnish a signal proof of the equity and moderation of our publick councils, would preserve unimpaired that firm and dignified attitude which it becomes us at all times, but now especially, to maintain. The suspension will be so far from relinquishing the measure, or weakening its effect, that it will distinctly imply a re-assertion of its principle and policy, and an unshaken resolution to act upon and enforce it, as soon as negotiation shall have been sufficiently and unsuccessfully tried.

The death of Mr. Fox, which every hour is expected to announce, may, and probably will retard our progress for some time; but our hopes are strong that we shall finally, and without much further delay, accomplish the great objects confided to us. The temper which the British commissioners have obviously brought to the negotiation, corresponding with that which has been manifested towards the mission by those who hold official stations here, as well as by the publick in general, is as friendly and respectful to our government and country as could be desired. We shall continue our exertions to fulfil, with all possible despatch, the instructions with which we have been honoured, and shall communicate to you by the earliest opportunity whatever of importance shall occur.

We have the honour to be, &c.

JAMES MONROE.

WILLIAM PINKNEY.

JAMES MADISON, Secretary of State.

P. S. SEPT. 12. We have just received separate notes to the same effect from lord Auckland, of which copies are enclosed. They authorize us to expect that the conference of Wednesday next, to which he invites us, will enable us to give you details of a more precise and interesting nature

than it has been practicable to give in the letter to which this is a postscript.

We omitted to mention in this letter, that we have been assured by the British ministers (particularly by lord Holland) that a liberal and satisfactory article, relative to the extent of our jurisdiction over the waters near our coast, and the exemption of the defined limits from all the operations of war, will be cheerfully agreed to, and that an article for defining blockade will meet with no opposition.

SEPT. 13. The account of Mr. Fox's health of this morning is, that the unfavourable symptoms have returned to so alarming a degree, as to leave no hope that he can long survive.

From Lord Holland.

DOWNING STREET, AUG. 23, 1806.

DEAR SIR,

I HAVE seen lord Auckland this morning, and, if not inconvenient to you and Mr. Pinkney, we thought of proposing to you to meet us at the foreign office, Downing street, at twelve o'clock, next Wednesday.* On that day we can exchange our powers, and will, if you please, take minutes of the general objects of your mission. I am, &c.

(Signed)

HOLLAND.

JAMES MONROE, Esq. &c. &c. &c.

To Lord Holland.

PORTLAND PLACE, AUG. 24, 1806.

MY LORD,

I HAVE been honoured with your note of yesterday, inviting Mr. Pinkney and myself to meet your lordship and lord Auckland at the foreign office, in Downing street, at 12 o'clock, on Wednesday next, for the purpose of exchanging our powers, and commencing the business confided to us by our respective governments. I have conferred with Mr. Pinkney on the subject, and have to assure your lord-

* 27th August.

ship, that we shall be punctual to the appointment which you have been so good as to give us. I am, &c.

(Signed)

JAMES MONROE.

The Right Hon. Lord HOLLAND, &c. &c. &c.

From Lord Holland and Lord Auckland.

DOWNING STREET, AUG. 28, 1806.

LORD HOLLAND and lord Auckland present their compliments to Mr. Monroe, and request, that, if it be not inconvenient to him, he will have the goodness to meet them in Downing street, on Monday next,* at 12 precisely.

[A similar note sent to Mr. Pinkney.]

To Lord Holland and Lord Auckland.

AUG. 29, 1806.

MR. MONROE presents his compliments to lord Holland and lord Auckland, and has the honour to inform them, that Mr. Pinkney and he will not fail to wait on their lordships in Downing street, on Monday next, at twelve o'clock.

To Lord Holland and Lord Auckland.

PORTLAND PLACE, SEPT. 2, 1806.

MR. MONROE and Mr. Pinkney present their compliments to lord Holland and lord Auckland, and have the honour to enclose to their lordships a copy of the act of Congress, which they requested in their interview of yesterday.

From Lord Holland and Lord Auckland.

DOWNING STREET, SEPT. 4, 1806.

GENTLEMEN,

WE have received a copy (sent by you at our request) of the "act of Congress to prohibit, from and after the 15th of November, the importation into the territories of the United States of a very large description of goods, wares, and merchandise, from any port or place situated in Great Britain or Ireland."

* 1st September.

On a full consideration of that act, we think it our duty to express our earnest hope and expectation, that some means may be found to suspend the execution of a measure so opposite, in its temper and tendency, to the disposition and views, with which our pending negotiation has been commenced, and is carrying on.

That measure, unless suspended, will take effect, if not before our discussions can be closed, at least before it is possible that their result can be known in the United States; and would obviously lead to the necessity of proposing to parliament similar steps on the part of this country, by which mutual irritation would be excited, and fresh impediments created in the way of such a final adjustment as, we trust, is mutually desired.

We rely on you for taking such immediate steps in this business, as may best contribute to a happy termination of our treaty, and to a cordial and permanent friendship between his majesty's subjects and the citizens of the United States. We have the honour to be, &c.

(Signed)

VASSAL HOLLAND.
AUCKLAND.

JAMES MONROE, Esq. and WM. PINKNEY, Esq.

P. S. The sailing orders of the North American mail will, in course, be issued this evening, unless you should wish to have them delayed for a day or two.

To Lord Holland and Lord Auckland.

SEPT. 4, 1806, 10 O'CLOCK, P.M.

MR. MONROE and Mr. Pinkney present their compliments to lord Holland and lord Auckland, and have the honour to request an interview with their lordships, at as early a moment as shall suit their convenience, on the subject of their note this day, which they have just received. In the mean time the delay suggested in the postscript to their lordships' note, of the sailing orders of the North American mail, will be extremely agreeable to Mr. Monroe and Mr. Pinkney.

From Mr. Allen, (secretary of Lord Holland.)

HOLLAND HOUSE, FRIDAY, SEPT. 5.

DEAR SIR,

LORD HOLLAND understanding by your and Mr. Pinkney's note of yesterday, that you are desirous to have some conversation with him before the sailing of the American packet, will be happy to meet you and Mr. Pinkney tomorrow, at the foreign office, at half past 11 o'clock.

I have the honour to be, &c.

(Signed)

JOHN ALLEN.

JAMES MONROE, Esq. &c. &c. &c.

To Lord Holland and Lord Auckland.

SEPT. 10, 1806.

THE undersigned, ministers extraordinary and plenipotentiary of the United States of America, present their compliments to lord Holland and lord Auckland, and have the honour to inform them, that they will hasten to transmit to their government their lordships' note of the 4th inst. the receipt of which has already been acknowledged.

The undersigned consider it their duty to assure lord Holland and lord Auckland, that nothing is more remote from the views of their government, than to oppose any obstacle to a fair and satisfactory conclusion of the present negotiation. They are persuaded, if all the circumstances, which have occurred between the two governments since the commencement of the present war, are taken impartially into consideration, that not the slightest doubt can remain on that point. It is certain, that the act of Congress, to which their lordships have objected, is attributable to other causes of a very imperious nature, and that it furnishes no sufficient reason to call in question the sincerity, with which the United States have uniformly sought to preserve the most friendly relations with Great Britain. The undersigned are, however, far from being desirous to look back to incidents, a review of which can serve only to produce regret. It is more important, and

therefore more agreeable, to look forward, and to provide by suitable arrangements against the like in future.

The undersigned flatter themselves, that nothing will occur on either side to excite irritation, or to create new obstacles in the way of an adjustment, which it is confidently believed the interest of both countries requires. They indulge the hope, that the present negotiation, which has been entered into by both governments with a sincere desire to adjust all subsisting differences, and to place their navigation and commerce on a basis of reciprocal advantage, will succeed in all its objects. The undersigned will not fail to promote that desirable result by all the means in their power. They will be happy in transmitting to their government a copy of their lordships' note of the 4th instant, to do justice to the friendly disposition which their lordships have brought into the negotiation; and in the mean time the undersigned will always be prepared to promote by their joint labours, with the greatest possible despatch, and on fair conditions, a satisfactory conclusion of it.

The undersigned request lord Holland and lord Auckland to accept the assurance of their high consideration.

(Signed)

JAMES MONROE.

W. PINKNEY.

From Lord Auckland to Mr. Monroe.

OFFICE FOR TRADE, WHITEHALL, SEPT. 12, 1806.

MY DEAR SIR,

LORD HOLLAND and I have received your note of the 10th inst. in answer to ours of the 4th instant. The unhappy consideration, which at present occupies lord Holland, has prevented him from meeting me since I returned from Dropmore; but I have received several letters from him, in which he expresses great anxiety that you should be informed by me, that we are not neglecting the joint objects which we all have in view.

If you and Mr. Pinkney (to whom I send a duplicate of this note) could conveniently come to Downing street, at

eleven o'clock, next Wednesday morning,* I shall then be able to state provisionally (in lord Holland's absence) many particulars which may deserve your consideration, and advance our next official discussion.

I am, dear sir, most sincerely yours,

(Signed)

AUCKLAND.

To Lord Auckland.

PORTLAND PLACE, SEPT. 14, 1806.

MY LORD,

I HAVE had the pleasure to receive your letter of the 12th, and shall with Mr. Pinkney not fail to meet your lordship at Downing street, on Wednesday next, at eleven in the morning. We will receive there any communications which your lordship will be so good as to make on the interesting subjects which engage our joint attention, not doubting that every interview will contribute to advance the business to its desired conclusion. We are aware, that lord Holland's domestick distress and duties will deprive us of the pleasure of seeing him for the present, and hope that your lordship will prevent that circumstance giving him the least anxiety. I beg your lordship to present, &c. &c. and to be assured of the great consideration and esteem, with which I have the honour, &c. &c.

(Signed)

JAMES MONROE.

Enclosed in Messrs. Monroe and Pinkney's Letter of September 11, 1806.

ARTICLE I.

No person whatever shall, on the high seas and without the jurisdiction of either party, be demanded and taken out of any ship or vessel, belonging to citizens or subjects of one of the parties, by the publick or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

* September 17.

No person, being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall in any case be compelled to serve on board any vessel, whether publick or private, belonging to such other party; and all citizens or subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled by an adequate recompense to return to their own country.

In all questions which may arise within the dominions of either power, respecting the national character of any person who claims to be a citizen or subject of the other power, due credit shall be given to such publick document as his government may have granted for his protection. And where such documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either party, such other evidence of said claim shall be received and admitted, as would be satisfactory in a court of judicature. The high contracting parties engage, that due care shall be taken that such documents shall be granted in their respective ports to such persons only as are justly entitled to them, and by suitable officers who shall be specially designated for the purpose.

ARTICLE II.

It is agreed, that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons, not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but on the contrary, all such deserters shall be delivered up on demand to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made within two years from the time of desertion by an exhibition of the ship's papers, or an-

thenticated copies thereof, and by satisfactory evidence of the identity of the person that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls or vice-consuls to the competent authorities, all deserters, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country. And all due aid and assistance shall be given in searching for as well as in seizing and arresting the said deserters, who shall even be detained and kept in the prisons of the country at the request and expense of the said consuls or vice-consuls, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not sent back or removed within three months from the day of their arrest, they shall be set at liberty and shall not be again arrested for the same cause.

[COPY.]

GEORGE, R.

GEORGE the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, duke of Brunswick and Lunenburgh, arch-treasurer, and prince elector of the holy Roman empire, &c. &c.

To all and singular to whom these presents shall come,

GREETING :

Whereas for the better treating of and arranging certain subjects now in discussion between us and our good friends the United States of America, the President of the United States, with the consent and by the authority of the senate and house of representatives of the said United States, has nominated, constituted and appointed James Monroe, Esq. and William Pinkney, Esq. commissioners extraordinary, to conduct the said discussion on behalf of the said United

States: and we, reposing especial trust and confidence in the wisdom, loyalty, diligence and circumspection of our right trusty and well beloved counsellor Henry Richard Lord Holland, and our right trusty and well beloved counsellor William Lord Auckland, have nominated, constituted and appointed, and by these presents do nominate, constitute and appoint them our true, certain and undoubted commissioners, procurators and plenipotentiaries, giving to them all and all manner of faculty, power and authority, together with general as well as with special orders (so as the general do not derogate from the special, nor on the contrary) for us and in our name, to meet, confer, treat and conclude with the said James Monroe and William Pinkney, being duly furnished with sufficient powers on the part of our said good friends the United States of America, of and concerning all such matters and things as may be requisite and necessary for accomplishing and completing the several ends and purposes herein before adverted to, and of and concerning all such matters and things as may tend to the mutual interests and advantage of our subjects or dominions and of those of our said good friends, and to the promoting and maintaining a mutual friendship, good understanding and intercourse between our subjects or dominions, and those of our said good friends, and for us, and in our name to sign all such article or articles, or other instruments whatsoever, as may be agreed upon between the said plenipotentiaries, and mutually to deliver and receive the same in exchange; and to do and perform all such other acts, matters and things, as may be any wise proper and conducive to the purposes above adverted to, in as full and ample manner, and with the like validity and effect, as we ourself, if we were present, could do and perform the same, engaging and promising on our royal word, that we will accept, ratify and confirm all such acts, matters and things as shall be so transacted and concluded by our aforesaid commissioners, procurators and plenipotentiaries, and that we will never suffer any person to violate the same in the whole or in

part to act contrary thereto. In testimony and confirmation of all which, we have caused our great seal of our united kingdom of Great Britain and Ireland to be affixed to these presents, signed with our royal hand. Given at our court at St. James's the twentieth day of August, in the year of our Lord one thousand eight hundred and six, and of our reign the forty-sixth.

No. 6.

LONDON, NOV. 11, 1806.

SIR,

WE flattered ourselves at the date of our last despatch, which was of September 11th, that we should have been able to have concluded a treaty with the British commissioners, and to have transmitted it to you before this, on all the interesting topicks which are embraced by our instructions, and on terms that would be approved by our government. The disposition which had been shewn by the members of the cabinet, with most of whom we had had conversations on the subject, and the sentiments which had been expressed in our conferences by the plenipotentiaries who had been appointed to meet us, independent of other considerations of a favourable character, had inspired us with great confidence in such a result. We regret, however, to be now under the necessity of stating to you, that although every topick has been frequently taken into consideration and discussed, and there is good cause to believe that a satisfactory arrangement may be obtained of many of the great points, and an admissible one of the inferior, that nevertheless nothing has been concluded on any point, and an insurmountable difficulty has occurred on one which is deservedly considered of the first importance to our country.

The opportunity by which we propose to forward this communication is so pressing as to time, that we fear we shall not be able to give you all the details which have attended the negotiation since the 11th of September. We shall, however, endeavour to comprise in it every circum-

stance which may be necessary to convey a just idea of its present state and probable result.

You were apprized by our last of the delay to which we had been previously exposed by the indisposition of Mr. Fox. It happened unfortunately that the same cause subjected us afterwards to much interruption in the prosecution of the business, which was finally suspended altogether, for several weeks, by his death. We add, however, with pleasure, that we experienced no delay on account of Mr. Fox's indisposition, which did not appear to us, in consideration of all circumstances, to be natural and reasonable; that the business was resumed by the British commissioners as soon after his death, and interment, as a suitable respect for his memory would permit; and that it has been pursued by them since in a manner to evince an evident desire on their part to bring it to a speedy conclusion.

Our attention was naturally drawn, from the commencement of the negotiation, to its principal objects, the impressment of our seamen, and the trade with enemies' colonies, the former of which presented the most serious difficulties with this government. As we knew that the tranquillity of our country, if not its peace, was essentially connected with a suitable provision for this great interest, it seemed useless to proceed to those of minor consideration, till it should be satisfactorily disposed of. Hence the greater portion of our time and labour has been bestowed in our several conferences on this latter topic. We have said every thing that we could in support of our claim, that the flag should protect the crew, which we have contended was founded in unquestionable right, whose enjoyment it was indispensable to secure by an unqualified and positive stipulation in its favour. We have also proposed in a spirit of accommodation every suitable expedient that we could devise, consistent with that principle, to obviate the inconveniences which it was urged on the other side were likely to result from its admission. But all our efforts have so far proved ineffectual. The right was de-

nied by the British commissioners, who asserted that of their government to seize its subjects on board neutral merchant vessels on the high seas, and who also urged that the relinquishment of it at this time would go far to the overthrow of their naval power, on which the safety of the state essentially depended. At one time, and that very recently, there was a prospect of an agreement on conditions which appeared to be just and fair between the parties, but that seems now to have completely vanished. It was urged by the British commissioners, that the proposition which we had made, to give the aid of the local authorities of the United States to apprehend and restore deserters from their vessels, as an inducement for their government to acknowledge the right which we contended for, in favour of the vessels of the United States on the high seas, did not furnish a complete remedy for the evil complained of. It did not follow, they observed, that such deserters would, in all or even most cases, retire into the country; they might, on the contrary, go on board an American vessel which might put immediately to sea, where our flag would protect them; that such desertions might also take place in a neutral port, and be attended with like consequences. They were therefore desirous that we should stipulate, that a law should be passed by the Congress, (to be of course reciprocal) which should make it penal for the commanders of American vessels to take deserters from those of Great Britain, under such circumstances, they being British subjects; and likewise, to make it the duty of our government to restore them on their arrival in the United States, on suitable application, and due proof being made of their persons. We agreed to provide a remedy for this presumptive evil. They then observed that the term "deserters" was too limited, according to their law, to comprehend those who might leave their merchant vessels; that it would apply only to such as left their ships of war; they therefore proposed that we should enlarge its import by adding the following terms, "seafaring people quitting their service;" to which we also agreed, taking

care, however, by confining their operation always to the case of real desertion from some vessel, not to give them a greater range in the sense of our law than we had at first intended. To our original project, thus amended, the British commissioners seemed to give their assent; they agreed expressly to propose an article to the cabinet to that effect, from which circumstance, and from what had previously occurred in our conferences, we were led to conclude that they would also support it. To give the cabinet full time for deliberation on the subject, our next meeting was postponed to so distant a day as to admit it. We are sorry to add, that the result of that deliberation was a rejection of the project, and with it an end to all hope of obtaining, at this time, in its stead, any satisfactory stipulation by treaty respecting impressments.

Our next interview had been appointed to take place on the 5th instant. On the preceding day we received a note from the British commissioners, with a report from a law officer of the crown, which seemed to be communicated to prepare us for what they had to announce more formally the next day. The report of the crown officer had been made in answer to an inquiry from them, on what ground Great Britain claimed a right to take by force her seamen from on board the merchant vessels of other powers, on the high seas. The report justified the pretension by stating, that the king had a right, by his prerogative, to require the service of all his seafaring subjects against the enemy, and to seize them by force wherever found, not being within the territorial limits of another power; that as the high seas were extra-territorial, the merchant vessels of other powers, navigating them, were not admitted to possess such a jurisdiction as to protect British subjects from the exercise of the king's prerogative over them. We were desired to consider the communication as a private one, at least in that stage.—At our meeting the next day the British commissioners stated explicitly, but in a very conciliating manner, that it was not in their power to adopt an article in the

spirit of our project; that the board of admiralty had been consulted on the subject, as had also been the crown officers in doctors commons, who united all, without exception, in the opinion, that the right of their government, in the case in question, was well founded, and ought not to be relinquished. They added, that under such circumstances the relinquishment of it was a measure which the government could not adopt without taking on itself a responsibility which no ministry would be willing to meet, however pressing the emergency might be. They presented to us at the same time a counter project, which they intimated they did in obedience to instructions from their government. It was proposed by this, that laws should be passed by the parties respectively, whereby it should be made penal for the commanders of British vessels to impress American citizens on board American vessels on the high seas, and for the officers of the United States to grant certificates of citizenship to British subjects. The negotiation being thus brought, as it were, to an issue on this very important point, the discussion of the whole subject was necessarily resumed, at considerable length, and with great earnestness. We maintained, with all the force in our power, the right of our government, on the principle, and to the extent we had done before, and denied as strenuously the pretension advanced by Great Britain: their counter project we declared was utterly inadmissible, as its adoption, so far from securing the just rights of the United States, and remedying the evils of which they complained, would prove an abandonment of their rights, and a sanction, in a considerable degree at least, to future injuries. The British commissioners, after supporting with great force, but with candour, the claim of their government, assured us that it was willing to do any thing in its power to satisfy the United States on the ground of their complaints, which might be done without a relinquishment of their claim. This interview terminated in the appointment of another to take place on the 7th, when it was agreed that the subject should be definitively

disposed of; and in the interim, that each party should revolve it in mind, to see if it might not be possible to suggest some plan which would prove equally satisfactory to both. We met on the 7th according to appointment, and having repeated what we had said before of their counter project, which we deemed altogether inadmissible, and having also stated that we could adopt none which did not allow our ships to protect their crews, or suggest any accommodation, other than what we had already proposed, as an inducement to their government to admit the principle, and it appearing that no change had taken place in their instructions, we came at length to the main question, that which had in truth been the great object of the meeting, what was next to be done under existing circumstances. Should the negotiation cease? The British commissioners expressed an earnest desire that it should not. We had repeatedly stated that unless this interest was provided for in a satisfactory manner, it would be useless to touch the other points, since a continuance of the same abuses on their part would render of no effect any arrangement however eligible which might be made of them. They intimated that their government gave at present no cause of offence to the United States by impressments, and that we might be satisfied it would continue to pursue the same policy; that it might be better that neither party should abandon its rights, and that each should endeavour to act, in respect to the injuries complained of by the other, in such a manner as to prevent future complaints. They thought that with such a disposition on both sides, seconded by a correspondent exertion, which they assured us existed, and would be made on their part, it was likely that the interest of each country would be placed on a footing, equally secure for temporary purposes, and much more, in respect to a permanent good understanding, than it could be for either by a treaty, which should even stipulate for it the object which it sought. We desired them to communicate to us by note the ideas which they had thus expressed, which they readily undertook by proceed-

ing to give a sketch of them at the time, and evidently showing a disposition to make it as acceptable to us as they could do, consistently with the principles of their government. We adjourned to meet again on the 12th instant, without having come to any positive decision as to the part which it became us to take in the delicate conjuncture in which we were placed. We did not fail, however, in showing our regret, that no suitable provision had been made for the very important question, which had been so long under consideration, to express our sincere desire to pursue that course in respect to the other objects of the negotiation, which our duty under existing circumstances would permit, and which might be most likely to promote a good understanding between the two countries.

On the 9th instant, we received from the British commissioners the note which they had promised us in the last interview, which we have found to correspond in all respects with what we had been taught to expect. We have also weighed with due consideration the great question which is propounded by it, and are decidedly of opinion that it is our duty to proceed to the other objects of the negotiation, leaving that of impressment on the ground on which it will be placed by this note, and our acting on it. Many strong reasons favour this course, while none occur to us of any weight against it. When we take into view all that has passed on this subject, we are far from considering the note of the British commissioners as a mere circumstance of form. We persuade ourselves that by accepting the invitation which it gives, and proceeding in the negotiation, we shall place the business almost, if not altogether, on as good a footing as we should have done by treaty, had the project which we offered them been adopted. The time at which this note was presented to us, and the circumstances under which it was presented, being when the negotiation was absolutely at a stand on this very question, and we had informed the British commissioners that we could do nothing, if it was not provided for, give the act a peculiar degree of solemnity and obli-

gation. It was sent to us as a publick paper, and intended that we should so consider it, and with the knowledge and approbation of the cabinet. It ought, therefore, to be held as obligatory on the government, in its just import, as if the substance had been stipulated in a treaty. It is just also to give it a liberal construction in favour of the United States, in consideration that it is the act of the British government. In that view it merits attention, that every thing is expressed in it that could be desired, except the relinquishment of the principle; that in speaking of impressments, the exercise of that act on the high seas is not mentioned, an omission which we know to have been intentional. From a full view of all these circumstances we think it fair to infer that this government intends to conform its conduct in future to the just claims of the United States, on this great interest, while by particular motives of policy it deems it improper to relinquish a claim, especially at this time, which has been long sustained and acted on by it, and which has been heretofore strongly supported by the national feeling, or, more properly speaking, prejudice; for we cannot believe that the interest of the nation is in favour of it, more especially if the project which we proposed should be adopted, or correspondent regulations entered into to produce the same effect by friendly co-operation between the two governments. We are therefore of opinion, if the negotiation had contemplated an arrangement of this point alone, that it would be proper to close the business amicably on the ground on which it is thus placed, rather than to break off abruptly, and take an unfriendly attitude, from which no advantage could possibly arise in any one respect, and much injury might, and most probably would, for a time at least, even to this very interest. How much stronger, then, is the obligation to proceed, when the other objects of the negotiation are taken also into view, all of which it is highly interesting to arrange, and several of which, of the first consequence, it is, as we believe, in our power to arrange. We are aware that our instructions impose on us the necessity of

providing satisfactorily for this great interest, as one of the conditions on which a treaty shall be formed. But it does not appear, that the fair object of that instruction will not be satisfied by the arrangement thus made. The prohibition, not to conclude a treaty otherwise than on the condition adverted to, is fairly to be understood as applicable to a refusal on the part of this government to arrange the business on just principles, and an adherence by it to its former improper and offensive conduct, which it is well known is not the case. Impelled by these considerations and motives, we shall go forward in the negotiation, and use our best efforts to place the other points on the most advantageous footing that may be practicable. We are the more confirmed in this resolution from the consideration, that we shall be able to do it without exposing our government or country to any, the slightest inconvenience. It is known to the British commissioners, that in proceeding under existing circumstances, we shall do it on our own responsibility; a responsibility, however, which we undertake in full confidence that our conduct and the motives of it will be approved.

We shall meet the British commissioners to-morrow to proceed in the negotiation, which we are persuaded it will not require any considerable length of time to conclude. All the other topics have been heretofore brought into view and discussed, but without any intention in that stage, on either side, to push a definitive settlement of them. So much, however, has been said on each by the British commissioners, as to enable us, as we presume, to form a tolerably correct estimate of what may be obtained on several, especially those of the greatest importance. In respect to the trade with enemies' colonies, they have repeatedly told us, that on condition we would land the cargoes in the United States, store them for a month, and change the ship, they would agree that the trade might be free afterwards in the productions of those colonies to other countries, including the parent country of the colony. We have refused to comply with the condition in respect to

the storing of the goods for a month, and changing the ship. Some arrangement more advantageous to us than their proposition, will, we have no doubt, be obtained. The question of blockade, and others connected with it, may we think be satisfactorily arranged. They will agree also to acknowledge our jurisdiction to the extent of a league from our coast; we have claimed that acknowledgment to the extent of three leagues. The trade with India they will put on the footing it held under the treaty of 1794. That with the West Indies must, we fear, rest on the ground of the most favoured nation only. Something we think may also be done in favour of an intercourse with the British provinces to the north of us. But our claim to an indemnity has been much discouraged, though we have never ceased to press it with great zeal. We shall continue to use our best endeavours to place all these great concerns on the most just and advantageous ground in our power, and shall hasten to communicate to you the result with the greatest possible despatch, as soon as the business is concluded.

We have been cautious not to compromit ourselves with respect to the law, which was passed the last session of the Congress, prohibiting the importation of certain British manufactures into the United States, after the 15th of this month, either with this government or individuals. We think it our duty, however, to observe, that our opinion of the propriety of suspending that law remains unchanged, as it was communicated to you in our letter of September the 11th. Indeed the uniform conciliating disposition of this government has strengthened us in that opinion.

Of the state of the war on the continent, the gazettes which accompany this, will give you all the information which we possess. Of the ultimate views of Prussia, under existing circumstances, we know nothing. So far she has followed the example and participated the fortune of Austria, as exhibited in the last campaign, and so far has Austria imitated hers of the same epoch, by viewing with

an apparent indifference events which menace the overthrow of both.

We have the honour to be, with great respect, &c.

JAMES MONROE,

WM. PINKNEY.

JAMES MADISON, Secretary of State.

HOLLAND HOUSE, NOV. 8, 1806.

His majesty's commissioners and plenipotentiaries have the honour to represent to the commissioners and plenipotentiaries of the United States :

That the project of an article on the subject of impressing seamen, together with the reasonings, by which the commissioners of the United States have urged the expediency of an arrangement on that subject, has been laid before his majesty's government, and has been considered with the same friendly and conciliatory disposition, which has marked every step of the negotiation.

That his majesty's government has not felt itself prepared to disclaim, or derogate from, a right which has ever been uniformly and generally maintained, and in the exercise of which the security of the British navy may be essentially involved; more especially in a conjuncture when his majesty is engaged in wars, which enforce the necessity of the most vigilant attention to the preservation and supply of the naval force of his kingdom.

That his majesty's government, actuated by an earnest desire to remove every cause of dissatisfaction, has directed his majesty's commissioners to give to Mr. Monroe and Mr. Pinkney the most positive assurances that instructions have been given, and shall be repeated and enforced, for the observance of the greatest caution in the impressing of British seamen; and that the strictest care shall be taken to preserve the citizens of the United States from any molestation or injury; and that immediate and prompt redress shall be afforded upon any representation of injury sustained by them.

That the commissioners of the United States well know,

that no recent causes of complaint have occurred, and that no probable inconvenience can result from the postponement of an article subject to so many difficulties. Still that his majesty's commissioners are instructed to entertain the discussion of any plan that can be devised to secure the interests of both states, without any injury to rights to which they are respectively attached.

That in the mean time the desire of promoting a right conclusion of the proposed treaty, and of drawing closer the ties of connection between the two countries, induces his majesty's commissioners to express their readiness to proceed to the completion of the other articles, in the confident hope, that the result cannot fail to cultivate and confirm the good understanding happily subsisting between the high contracting parties, and still farther to augment the mutual prosperity of his majesty's subjects and of the citizens of the United States.

(Signed)

VASSAL HOLLAND,
AUCKLAND.

PROJECT.

IN order to prevent the vessels of either party from becoming a sanctuary at sea for deserters, from the vessels of the other party, it is expressly stipulated by the high contracting parties, that they will respectively enact laws, whereby it shall be made penal for the commanders or masters of the vessels of either of the parties, who may happen to be in the ports of some third power, or in the ports of one of the parties, with the vessels of

COUNTER PROJECT.

WHEREAS when the one nation is at war, and the other at peace, it is not lawful for the belligerent to impress or carry off from on board the vessels of the neutral, seafaring persons, who are the native subjects of the neutral, or others who are not the subjects of the belligerent; and whereas, from the similarity of the language and appearance, it may be difficult to distinguish the subjects of the two states, the high contracting

the other party, to receive on board and carry to sea [knowing them to be such] the sailors, belonging to, and deserting from such vessels. It is further agreed, whenever the vessels, having on board the sailors who may have so deserted in a neutral port, shall arrive at any port of the party to which they belong, that such party shall cause such deserters to be delivered up, on proper application supported by lawful evidence, to the agent or consul of the other party, who may be duly authorized by his government to act in such cases.

parties agree, that for the greater security of the subjects of the neutral, they will enact such laws respectively, as shall subject to heavy penalties the commanders of the belligerent ships, who shall impress or carry off the native subjects of the neutral, or others not being the subjects of the belligerent, from on board the neutral vessels, on any pretence whatsoever. And they further agree to enact laws respectively, making it highly penal in the subjects of the neutral to grant any certificates of the birth and country of seafaring persons, without due evidence and proof of the same.

[TRIPPLICATE.]

No. 7.

LONDON, DECEMBER 27, 1806.

SIR,

WE have the pleasure to acquaint you that we have this day agreed with the British commissioners to conclude a treaty on all the points which had formed the object of our negotiation, and on terms which we trust our government will approve. It will require only a few days to reduce it to form. When that is done we shall transmit it to you by a special messenger. We hasten to communicate to you this interesting intelligence, for the information and guidance of our government in such measures as may have reference to the subject.

We have the honour to be, &c.

JAMES MONROE,
WILLIAM PINKNEY.

JAMES MADISON, Secretary of State, Washington.

No. 8.

LONDON, JAN. 3, 1807.

SIR,

WE have the honour to transmit you a treaty, which we concluded with the British commissioners on the 31st of December. Although we had entertained great confidence from the commencement of the negotiation, that such would be its result, it was not until the 27th, that we were able to make any satisfactory arrangement of several of the most important points, that were involved in it. On the next day we communicated to you that event by several despatches, three of which were forwarded by vessels from Liverpool, so that we hope you will receive very early intelligence of it. We commit this, with the treaty, to Mr. Purviance, who we flatter ourselves will have the good fortune to arrive in time to deliver it to you before the adjournment of Congress.

The necessity we feel ourselves under to forward to you the treaty without delay will, we fear, render it impossible for us to enter so fully into the subject of it, as on many considerations it might be proper to do. We are aware that such instruments must be construed by an impartial view of their contents, uninfluenced by extraneous matter. A knowledge, however, of the sense in which the several articles of a treaty were understood by the parties to it, may in most cases be useful. It is also just to remark that some circumstances occurred in the course of this negotiation, which, although they do not appear on the face of the instrument itself, yet as they may have no inconsiderable influence on the future relations of the two countries, it is peculiarly important to explain. We shall endeavour to give such explanations, where they may be necessary, in the best manner that may be found compatible with the despatch which the occasion so imperiously requires, and we flatter ourselves without omitting any thing on any point that may be deemed of essential importance.

The first article of the present treaty, which stipulates

that peace shall subsist between the parties, is taken from that of 1794, and is found in most of the modern treaties.

The second article confirms those of a permanent nature in the treaty of 1794. The British commissioners were very desirous to introduce the permanent articles of that treaty, in the form of new stipulations, into the present one. They insisted with great earnestness, that the article which relates to the trade with the Indian tribes, should be so amended as to admit the traders of Canada and the Hudson Bay company to participate with us in the trade with the tribes in Louisiana. They seemed to admit, that by a fair construction of the article they could not support such a claim, but contended that it was justified by its spirit. Their solicitude on this point, which they had supposed was an unimportant one to the United States, created some embarrassment and delay in the business. They intimated that it proceeded from a desire to conciliate the public opinion in this country in favour of the treaty, which became necessary in consequence of the concessions which they thought they made us on other points. As we were decidedly of opinion that the article in the treaty of 1794 could not apply to territory afterwards acquired, and could see nothing in its spirit which entitled it to such an extension, and more especially as our instructions contemplated a different result, it was impossible for us to adopt that proposal. They finally agreed therefore, though not without evident reluctance, to the article in its present form.

We regret to say that the third article, which regulates our trade with the British possessions in India, which, with one essential and most unfavourable difference, is the same with the thirteenth article of the treaty of 1794, is not what we had been led to hope it would be practicable to make it. Aware of the importance attached to this commerce in America, we have used the most zealous and persevering efforts not only to prevent the introduction of new restraints upon it, but even to emancipate it from some of those which the treaty of 1794 had distinctly sanctioned. The India company have, however, been less accom-

modating than was at first expected, and hence the rejection of all the amendments proposed by us, one of which sought to omit entirely, and (when that was refused) to modify, the proviso copied from the treaty of 1794, that our voyages from the British possessions should be direct to the United States. This amendment, in both its shapes, was repelled in such a manner as to convince us that nothing would be gained by continuing to press it, and we gave it up at length with great reluctance. In this stage of the business, the British commissioners insisted upon an amendment upon their part, by which our voyages to British India were required to be direct from the United States. This unexpected amendment was proposed, at the instance of the India Company, after the project of the British commissioners (which, with reference to this subject, was a literal copy of the 13th article of the treaty of 1794) had not only been presented to us, but fully discussed, and, as we understood, settled. The real intention and office of it were said, by lord Holland and lord Auckland, to be no more than to make the article speak unequivocally what was the true meaning of the article in the late treaty. We replied to this, that the article in the late treaty was not susceptible of this limited construction; that its obvious import was that only the voyage from India should be direct; that this had been solemnly adjudged by their own courts of law, and that the practice had been and still continued to be so. We were answered by the production of a paper purporting to be a report of that in their opinion an American vessel was not entitled to a clearance from a port in Great Britain to Calcutta under the treaty of 1794. We were told moreover, that lord Grenville when he made the treaty, the India company when it sanctioned, and the British government when it ratified it, did not mean to authorize any other than direct voyages, outward, as well as homeward, between the United States and their Indian possessions, and that, if the treaty was liable to any other construction, it arose from mere inadvertence in adjusting the phraseology; but that in truth it was not a fair and

natural interpretation of words, which authorized a commerce between two defined limits : that a commerce between one of those limits and some third place was intended to be allowed, although not a word was said about it in the article. Having given the obvious answer to these suggestions, we urged, as long and as zealously as was thought advisable, the inconveniences to which our trade with India would be subjected by prohibiting any of the modes in which it was prosecuted, as well as the unfriendly appearance of the new restriction, for which there existed no adequate motive. We spoke of the sensibility which would be excited in our country by such an ill-timed and ungracious interference, the interests which it would affect, and the passions which it would enlist against the entire treaty : to all which it was finally answered, that the India company could not be prevailed upon to relax upon this point ; that moreover it ought not to be forgotten that this was a trade from which their own subjects were ordinarily excluded in favour of the company's monopoly ; that this monopoly, as a losing concern, seemed at present to require peculiar protection ; that our admission into British India at all was a boon, for which we did not and could not give any equivalent, and of course that we could not justly complain, if that admission was somewhat qualified with a view to the mitigation of the evils by which it was undoubtedly attended, and which it was not possible wholly to prevent, especially if we were not placed upon a more disadvantageous footing in that respect than other friendly powers, which was so far from being the case, that we were unquestionably admitted by the article, as they proposed to amend it, upon much better terms than any other nation, inasmuch as our commerce (exclusive of the advantage of being secured by treaty) would be subject only to British duties, whereas the Danes and Swedes paid alien duties to a considerable amount, without enjoying any privilege, (whatever might be said to the contrary) to which we were not equally entitled. We were at last reduced to the necessity of accepting the article with the

obnoxious amendment, rendered less obnoxious, perhaps, by the clause relative to the most favoured nation, or making a treaty without any article upon the subject, which would have the same, and probably worse effects, or of making no treaty at all. We preferred the first.

The fourth and fifth articles regulate the trade between the United States and the British possessions in Europe. By these we are persuaded that much greater satisfaction will be given to our government and country, than by the preceding one. The three first clauses of the fifth article, which place the vessels and merchandise of each country in the ports of the other, in respect to duties and prohibitions, on the footing of the most favoured nation, are taken from the treaty of 1794. To these we were not aware that any well founded objection was ever made. But the subsequent clauses give a new character to this intercourse. The right which the British government reserved by the treaty of 1794, to impose a tonnage duty on American vessels equal to the duty which was payable on British vessels in the United States, is by the first of these clauses made reciprocal. Under that reservation, or rather as we presume the pretext of it, the British government had actually imposed a tonnage duty on American vessels of 6*s.* 5*d.* per ton, being almost three times the amount of the duty which was payable on British vessels in the United States. And as the United States had expressly stipulated not to raise the duty on British vessels higher than it then was, it was out of their power, without a palpable violation of that stipulation, to countervail the duty imposed by Great Britain on American vessels. But, by making the reservation reciprocal, the United States have an unquestionable right to raise the duty on British vessels to the same level, wherever that may be. And by confining the reciprocity strictly to the principle of national equality, that is, an equality of tonnage duties which shall be payable on the vessels of each party in the ports of the other, a right is reserved by each to give what preference it thinks fit, within that limit, to its own vessels and peo-

ple. At present such preference is given by our law to the amount of 44 cents per ton, which is not only protected by this clause against any countervailing measure, other than by lessening the duty, but the right is secured to increase it in the degree above stated. By this we do not wish to imply that it would be advisable to take all the advantage of this circumstance which the article admits of. The presumption is, that the British government will, in case the treaty is ratified, repeal the additional duty on American vessels, which will leave them charged in common with their own, and those of every other nation, with the sum of 4s. 5d. per ton. Should our government think proper to raise the duty on British vessels to the same point, it may, perhaps, be advisable not to increase the present discrimination. The last clause of this article, which stipulates that the same duties of exportation and importation shall be paid on all goods and merchandise, and that the same drawbacks and bounties shall be allowed in both countries, whether the same be in British or American vessels, will, it is also hoped, be found of very essential advantage to the United States. The right which Great Britain had reserved by the treaty of 1794, to countervail the difference of duty payable in the United States on European and Asiatic goods, when imported in British or American vessels, had been productive of very serious injury. The duties which had been imposed by the British government on American productions, on that principle, were so high, making in most cases a difference of shillings per ton in favour of British vessels, that it must have been impossible, in peace, for our navigation to have borne it. The evil was the greater, because the species of commercial warfare in which it engaged us, in consideration of the comparative value and bulk of the articles subject to it in each country, furnished no remedy. On the contrary, as the principle was unfavourable, the farther it was carried, the worse would be its effect. By this clause it is presumed that the evil will be completely done away, while we flatter ourselves that the stipulation in favour of

drawbacks and bounties, without exposing us to any inconvenience, will be productive of some advantage.

It is proper to remark that we did not omit to propose an arrangement on the subject of export duties, by which the United States should at least be placed in that respect upon the footing of all other nations. The discrimination to our prejudice in the British duties on exportation, which took their rise in the convoy duty of the last war, has undoubtedly an unkind and oppressive effect. This discrimination is found in the 43. Geo. 3, ch. 68, a permanent act, (which repealed the then existing duties, and substituted others) and in the 43. Geo. 3, ch. 70, which imposes additional duties during the present war. Taking the war duty and the permanent duty together, the consumers in the United States of certain British manufactures [for the duties in question apply only to British manufactures, and not to all of them; British cotton yarn and manufactures, and some other articles being excepted] pay two and a half per cent. ad valorem more than the consumer in Europe, or within the straits, pays on the same goods.

The only mode in which it could be supposed to be possible, that this unpleasant distinction could be removed, was by applying to the subject the rule of the most favoured nation. Great Britain was not likely in her present situation to stipulate against all export duties, or even to agree to a maximum. Neither was she likely, by considering the actual duties as originally, and even now convoy duties, and therefore in their principle applicable only to the navigation which her convoys protect, to relieve from them, wholly or in part, such merchandise as should be carried to our country in American vessels, and leave them to oppress her own tonnage; thus offering a bounty in favour of American ships against her own. The rule of the most favoured nation was therefore finally suggested, with a hope that it would meet with no objection. It was, however, perseveringly opposed. We were told that the single effect of such an arrangement would be to compel Great Britain to raise the export duties against other

countries, not to reduce them as to us, and that this would be of no advantage to the United States, but might be a serious embarrassment to Great Britain. It was urged on our part, that, if Great Britain could not give up entirely the excess of export duty, now paid by us, it did not follow that it might not be fairly distributed among the consumers of her merchandise in every part of the world, so as still to produce the same revenue with more regard to justice; that, as her best customers, we had a right to be placed upon at least an equal footing with other nations, and to complain if we were rather distinguished by the peculiar burdens which she undertook to impose upon us; that the discrimination against us, upon the notion that the duty had reference to convoy, was a fallacy, since part of the discrimination was permanent, and of course a peace, as well as a war duty; since we, who paid the duty, derived no benefit from the convoy, which was professed to be the consideration of it; and since the protection of their own trade in their own navigation, being a general and national concern, there was no sound reason why the relative expense of particular convoys should be allowed to suggest the relative measure of the duties, which were to supply the means of affording them. They replied to the idea of distributing the amount of the discrimination among all the consumers of their merchandise, by referring us to the present state of Europe. - They reminded us that their own colonies in America paid the same export duty that was paid by us, and repeated, that as it was only the discrimination between the United States and Europe, of which we could have any right to complain, we could not demand to have any part of the duty against which we remonstrated, withdrawn from us, and that we could gain nothing by forcing this country to add to the burdens of others, already overwhelmed and impoverishing by the calamities of war. We were obliged, though very reluctantly, to abandon this object.

The sixth article relates to the commerce with the West Indies, which it was found impossible to arrange in a satisfactory manner. There were many serious obstacles to

an agreement on this point, some of which seemed to be peculiarly applicable to the present time. The British West India merchants had at an early stage represented, that by the trade which our citizens enjoyed with the colonies of their enemies, we had so completely stocked the markets of the continent with West India productions as to shut those markets on them. They had remonstrated earnestly against any arrangement of that point which should sanction, in any degree, our trade with those colonies. This question had taken deep hold of the minds of a great proportion of this community, among whom may be classed, not those in the mercantile line only, who were immediately engaged in the trade, but the whole commercial interest, and many in other circles of great consideration in the country. Of this fact sufficient proof was furnished by the debate which took place in the last session of parliament, on the bill for regulating the intercourse between the United States and the West Indies. The British commissioners seemed to have taken from that debate, more especially from the support which their opponents apparently received from the publick in it, a very strong admonition not to touch the subject by treaty at this time. They were apprehensive that any regulation of this trade, however fair it might be, which should accompany their sanction of that with the colonies of their enemies, would produce the worst effect with all parties, and endanger any treaty which might be formed. They were, therefore, desirous of postponing the subject for the present; to which we agreed. In the stipulation which provides for the postponement, we have, as you will perceive, in conformity with our instructions, reserved the right to our government to counteract any regulations by which the British government may exclude us from a fair participation in that commerce. While the war lasts we shall enjoy it in a certain degree, with the consent of the British government, by necessity. And the reservation cannot fail to be considered by it as a powerful weapon of defence, to be used when occasion calls for it. It must be

seen that it will be impossible for the Congress to prohibit an intercourse between the United States and the West Indies, in British vessels, without producing a very serious effect on their whole navigation and commercial interests. We flatter ourselves, therefore, that it may be found practicable, and perhaps not difficult, to arrange this business hereafter to the satisfaction of both countries.

The seventh article relates to the appointment of consuls by each party in the territories and ports of the other. It was taken from the treaty of 1794.

The 8th article, which specifies the causes for which vessels may be captured or detained, including among them the circumstance of their having enemies' property on board, is (except the last clause) a transcript of the 17th article of the treaty of 1794. The stipulation contained in that clause, that the parties shall be allowed adequate damages and charges of the trial in all cases of unfounded detention or other contravention of the regulations of the present treaty, will, we presume, produce the salutary effect contemplated by it. There is, perhaps, no principle in the maritime pretensions of this country, which has been more abused in practice, than that which this provision is intended to remedy. That damages should be allowed in all such cases is, it is true, a doctrine recognised by the court of admiralty. It cannot, however, be doubted that, by providing for them in the treaty, the obligation to allow them will acquire greater force with the court, and even the government itself, while it cannot fail to give an useful admonition to the cruisers.

The ninth article regulates what shall be deemed contraband of war. You will observe that tar and turpentine, except when destined to a place of naval equipment, are not comprised in it, and that provisions are altogether omitted. We endeavoured to exclude from it naval stores, but without effect. We succeeded, however, in exempting the vessel on the return voyage, after depositing her cargo at the port of her destination, from being detained on the pretence that it consisted of contraband articles.

The provision in the tenth article, relative to vessels sailing without knowledge of a blockade, is somewhat altered from the treaty of 1794. The precise effect of the change cannot perhaps be pronounced with certainty; but it seems to be clear that it cannot be otherwise than advantageous. The alterations consist in the introduction into the preamble of "the distance and other circumstances incident to the situation of the contracting parties," and of the word "such" into the provision which follows. The first amendment appears to justify an inference, that, on account of the peculiar circumstances, local and relative, thus recited as the reasons why, in the opinion of the contracting parties, "it may frequently happen that vessels may sail for a port or place without knowing that it is besieged, blockaded, or invested," our vessels ought not to be liable to be judicially affected with knowledge of a blockade, so as to subject them to penalty, by the evidence usually held to be sufficient for that purpose. Sir W. Scott decided in 1799, that, in consequence of the distance of the United States from Europe, we were entitled to a more favourable rule in that respect than other countries, and our article may be fairly considered as adopting that idea and acting upon it. On the foundation of the single fact of distance, Sir W. Scott justified a conjectural destination from America to Amsterdam, although the blockade of that port had been notified; and the parties concerned were proved to have known of the commencement of it. The article, as it now stands, seems necessarily to imply at least the same indulgence; and, if it does, it certainly goes farther than Sir W. Scott's opinion, which does not admit that an inquiry can be made of the blockading force, as our article unquestionably does, in the cases to which it applies. It does not appear to be unreasonable to hold, that, a peculiar motive being now assigned in the preamble for the provision which it introduces, a correspondent peculiar effect is contemplated by that provision; and no such effect can follow from it, if it be not that [as our distance makes it impossible "that we should have constant

information of the state of the blockade, whether it continues or is relaxed"] the mere notification of the blockade, or even the knowledge that the blockade has been commenced de facto, shall not be sufficient to make the destination illegal, but that, notwithstanding such notification or knowledge, we shall receive warning at the port or place blockaded. The words "without knowing that the same is either besieged, blockaded, or invested," will admit of this interpretation, since, by reason of our distance, it may in our case be truly said [and has in substance been judicially said] to be one thing to know that a blockade has been notified or instituted, and another that it continues. We endeavoured, without success, to obtain the consent of the British commissioners to the article proposed in your project. They would only agree, as you will perceive, to take its preamble and engraft it upon the article of 1794, observing that this would give to that article a new and more favourable, though certainly an undefined character; and that, at a moment when their maritime efforts in this mode of hostility might more than ever become indispensable to the national safety, it was impossible to do more. We pressed them long and earnestly to connect with the clause a definition of blockade, to which, in the early stages of our negotiation, it was believed there would be no objection. We found them, however, decidedly averse from such a definition by treaty, notwithstanding the precedent afforded by lord St. Helen's convention with Russia. They maintained that the British doctrine was already as explicit on this point as any definition could make it; that it was difficult, if not impracticable, to agree upon one which should be at the same time accurate and complete; that the clause in its present form would do much towards the accomplishment of our object; and that what remained it would be in their power, as it certainly was in their inclination, to supply, as effectually as in the treaty itself, by taking occasion to state, in a letter which it was intended should be delivered to us on their part at the time of the signature of the treaty, which you will

hereafter find explained, the theory and practice of the British government on this subject.

This reasoning was in no degree satisfactory, and it was resisted accordingly, but without effect. The proposed substitute for a definition by treaty might be of some value, and was not therefore opposed; but it was obvious that it would be greatly impaired, if not wholly destroyed, by the nature of the letter, of which we had received a full explanation, and in which the suggested statement was to be inserted.

The eleventh article regulates the great question of our commerce with enemies' colonies, the interruption of which was one of the principal causes of the late disagreement between the two countries. We trust that the compromise which has been made on this point will be advantageous to our commercial interest, and satisfactory to our government. The British commissioners were very desirous of burdening this intercourse with several severe restrictions, to place, as they did not hesitate to state, their own merchants on an equal footing, in the great markets of the continent, with those of the United States. With that view, and to settle all questions concerning the continuity of the voyage, they proposed that all articles of West India produce should be stored in the United States for the term of one month, be transported thence to Europe in another ship from that in which they were brought, and be likewise subjected to a duty of at least four per cent. on re-exportation. They finally agreed, however, to relinquish all these pretensions, except the landing of the goods in the United States, and the payment [by which is understood the securing of the payment in the mode prescribed by our law] of one per cent. on such European articles as may be carried thence to the colonies, and of two per cent. on such West India productions as may be carried to Europe, including the parent and every other country. We are persuaded that this arrangement will be attended with less inconvenience to the parties than the other restrictions above mentioned, or either of them. The storing of the

goods especially for a month seemed to be peculiarly objectionable, as it would have subjected us to a serious injury, without being attended with any circumstance to alleviate the regret inseparable from it. We flatter ourselves that the sum agreed to be paid will not be felt as a heavy one on our merchants, whose patriotism will be gratified by the recollection that the duty which they pay will redound to the advantage of their country. By the compromise which is made the practical enjoyment of the rights of each party is forborne, in the manner stated and for the term specified, while the rights themselves are reserved. The stipulation, being in the form of a concession on the part of Great Britain, is intended to mitigate her principle where it applies, but in no respect to enlarge the sphere of its operation. No judicial decision of the court of admiralty in this country has hitherto extended the British principle to enemies' colonies in the East Indies, and it is understood that it does not apply to the greater part, if to any of them. Some cases are depending before it from the vice-admiralty courts of Halifax and Columbo, which will bring the point into question. Should the opinion of the court be that the principle is applicable to the colony to which the cause relates, then the party will have the advantage of the provision contained in this article; should it on the contrary decide that it does not apply to such colony, then the trade between it and the parent country will be free. This view of the subject was entertained equally by the British commissioners and ourselves, and is that, as they assure us, which the court of admiralty will adopt in its decisions. We endeavoured to exempt this branch of the trade with enemies' colonies from the operation of the British principle; but that was found to be impracticable. We flatter ourselves that the arrangement made respecting it will be deemed the next most eligible one that could have been adopted, and that it will produce in practice, in a great measure, if not altogether, the same effect.

The twelfth article establishes the maritime jurisdiction

of the United States to the distance of five marine miles from their coast, in favour of their own vessels and the unarmed vessels of all other powers who may acknowledge the same limit. This government contended that three marine miles was the greatest extent, to which the pretension could be carried by the law of nations, and resisted, at the instance of the admiralty and the law officers of the crown in doctors commons, the concession which was supposed to be made by this arrangement, with great earnestness. The ministry seemed to view our claim in the light of an innovation of dangerous tendency, whose admission, especially at the present time, might be deemed an act unworthy of the government. The outrages lately committed on our coast, which made some provision of the kind necessary, as an useful lesson to the commanders of their squadrons, and a reparation for the insults offered to our government, increased the difficulty of obtaining any accommodation whatever. The British commissioners did not fail to represent that which is contained in this article, as a strong proof of a conciliating disposition in their government towards the government and people of the United States. The limit established was not so extensive as that which we had contended for, and expected to have obtained. We persuade ourselves, however, that the great object which was contemplated by any arrangement of the subject will result from that which has been made. The article in the treaty, in connection with the causes which produced it, forms an interesting occurrence in the history of our country, which cannot fail to produce the most salutary consequences. It is fair to presume that the sentiment of respect which Great Britain has shewn by this measure for the United States, will be felt and observed in future by her squadrons, in their conduct on our coast, and in our bays and harbours. It is equally fair to presume that the example of consideration which it affords in their favour by a nation so vastly preponderant at sea, will be followed by other powers.

By the thirteenth article it is agreed that the sum for

which bonds shall be given by the commanders of privateers, before they receive their commissions, to indemnify those who shall be injured by their misconduct, shall be increased to a greater amount than was required by the 19th article of the treaty of 1794. It is also enjoined in stronger and more definite terms on the belligerent in this than in the former article, to see that its ships of war and privateers shall observe, in a manner the most favourable to neutrals, the acknowledged principles and rules of the law of nations, in the search of merchant vessels. We endeavoured to obtain an arrangement more adequate to the object, and relinquished the pursuit of it with regret. While the subject of visitation and search was under consideration, the British commissioners assured us that their government would regulate it in a satisfactory manner to the United States by act of parliament, especially in respect to privateers, which assurance was repeated when the treaty was signed.

The following articles, to the twenty-first inclusive, are taken from the treaty of 1794. The British commissioners shewed a desire to retain them, and as it appeared that they had in substance been introduced into the treaty with France, of 1801, and that an attempt on our part to omit them would be thought unaccommodating and captious, we agreed to them.

The twenty-second article contains a new and useful provision in favour of the unfortunate in the case of shipwreck.

The twenty-third article, after declaring that it is the intention of the high contracting parties that the people of their respective dominions shall be on the footing of the most favoured nations, stipulates that in case either of the parties shall hereafter grant any additional advantages in navigation or commerce to any other nation, the citizens or subjects of the other party shall fully participate in them. This article is deemed peculiarly important in many views, but more especially in its application to the British possessions in the East Indies. If it can be shewn that any

peculiar accommodation is or shall be hereafter granted to any other powers, we become entitled to it of course.

The twenty-fourth article engages that the parties shall communicate to each other the laws which their respective legislatures may enact for the abolition or limitation of the African slave trade, and that they will also use their best endeavours to procure the co-operation of other powers for the complete abolition of that trade. As this engagement reposes on our laws, it follows that it does not enjoin any obligation unknown to them. If it should be acted on at all by our government, farther than by communicating to this the laws of Congress, as is proposed in the first part of the article, the sphere of its operation would be a very contracted one, till the year 1808. After that period such a co-operation on a more enlarged scale would become a constitutional measure of the government, and, as we think, a suitable one. Mr. Fox had taken great interest in this question, and it is understood that in suggesting the idea, in the address of the house of commons to the king, of obtaining the co-operation of other powers, the United States were held particularly in view. The British commissioners proposed the article, and shewed great desire that we should agree to it. As this stipulation was not comprised within the scope of our instructions, we have thought it our duty to explain to you the cause to which its admission into the treaty is to be attributed.

The twenty-fifth article was introduced for the purpose of protecting other powers, having treaties with either party, in the enjoyment of the rights secured by them. The stipulation contained in our treaty with France, in 1803, of certain commercial privileges in favour of French and Spanish subjects for a defined term in Louisiana, made such a provision particularly necessary.

The twenty-sixth article fixes the term of the treaty at ten years from the date of the exchange of the ratifications.

We are sorry to add that this treaty contains no provision against the impressment of our seamen. Our despatch of the 11th of November communicated to you the result

of our labours on that subject, and our opinion that, although this government did not feel itself at liberty to relinquish, formally by treaty, its claim to search our merchant vessels for British seamen, its practice would, nevertheless, be essentially if not completely abandoned. That opinion has been since confirmed by frequent conferences on the subject with the British commissioners, who have repeatedly assured us, that, in their judgment, we were made as secure against the exercise of their pretension by the policy which their government had adopted in regard to that very delicate and important question, as we could have been made by treaty. It is proper to observe, however, that the good effect of this disposition, and its continuance, may depend in a great measure on the means which may be taken by the Congress hereafter to check desertions from the British service. If the treaty is ratified, and a perfect good understanding produced by it between the two countries, it will be easy for their governments, by friendly communications, to state to each other what they respectively desire, and in that mode to arrange the business as satisfactorily as it could be done by treaty.

We regret also to be under the necessity of stating that no provision has been made by the treaty to indemnify our citizens for their losses by the late seizures, and other violations of the law of nations. This object engaged our attention in every stage of the negotiation, and was not abandoned by the signature of the treaty. On the day it was signed, we stated in explicit terms to the British commissioners, that we could not conclude, without having a satisfactory assurance, by them, of the part their government intended to take, equally in regard to the vessels and cargoes which had been condemned, and the suits that were depending. The principle established in the correspondence between Mr. King and lord Hawkesbury, we admitted should form the boundary of our claim, in respect to the seizures for an imputed illegal trade; for every violation of which, in cases of condemnation, we expected a full indemnity, and a dismissal of all the causes still depend-

ing that were protected by it. The British commissioners observed, that it was neither their wish nor expectation that we should relinquish our claim; on the contrary, they were willing we should preserve it: with which view they proposed that we should present them a paper, bearing date prior to the signature, which should make the reservation in such form as we thought best suited to the object. They intimated that, in cases of vested right, it was not in the power of their government to interfere to the prejudice of the parties, and that it would be hard on the government, and unpopular in the ministry, to apply the publick money to such a purpose; still they said nothing to preclude that expectation; on the contrary, they encouraged it, and were still more explicit in suggesting that the depending cases would not be unfavourably adjudged. They seemed desirous that, while we should reserve our claim, their government should retain a right to pursue such a course of conduct in regard to it as might be dictated hereafter by circumstances. To enter into an engagement in favour of our claim in the present state of things, appeared to them as being likely to expose their government to the imputation of having done it by coercion, and to deprive it of a claim to any merit for such an accommodation as it might, under other circumstances, be disposed to yield. Should the circumstances of collision which had taken place between the two countries be done away, and their commerce and friendly relations be re-established, as they hoped was already in a great measure done, and would be so completely by this treaty, their government, they thought, would feel itself more at liberty to yield accommodations on this topic than in the actual state. This was the substance of the communication made us on this subject by the British commissioners before the signature of the treaty, on which, and our declaring explicitly that we would reserve the right in the manner they had proposed, in full confidence that their government would respect it, we proceeded to sign the treaty. We have had an interview with the British commissioners since the sig-

nature, and were happy to find that they had not forgotten what had passed between us on that occasion. We had asked the interview, as we informed them, for the purpose of conferring on this subject, and of obtaining their sentiments in so distinct a form as to leave us under no embarrassment in the communication it was our duty to make to you on it. Nothing passed in this interview, on their part, to change the ground on which the business had been placed in the former one. They intimated, however, that it might be advantageous, and would certainly be proper for us, in the present stage, to confer with lord Howick on this subject, since any declaration from him could not fail, according to its import, to merit the peculiar attention of our government. We have accordingly seen and conferred with lord Howick upon this topic, whose sentiments appeared to correspond strictly with those which had been delivered to us by the British commissioners. He intimated, however, that it would be better for us to address the note which should contain a reservation of our rights to indemnity, to him than to the commissioners, to which we assented, as we could not perceive that that circumstance would make any difference in the case. We are engaged in preparing this paper, which we expect to present to his lordship in a few days, though we fear it will not be ready in time to enable us to obtain his answer to it to be forwarded to you with this despatch. We shall not fail to communicate to you, without delay, whatever may occur on this subject. We think it our duty, however, to add, that we do not wish our government to be too sanguine in the expectation of a satisfactory result. In the deliberations on this subject, it may, perhaps, be better to presume that such a one may not be obtained, as it is not provided for in the treaty. The above statement is nevertheless perfectly correct, and we beg you to be assured, that we shall continue to exert our best endeavours to secure an object which we consider of so much importance. We shall send you a statement of the cases of condemnation, and of the causes still depending, which is less extensive in both views than may have been supposed.

It happened, when the negotiation had reached a very advanced stage, that an account was received here of the decree of the emperor of the French at Berlin, of November 21, which declared Great Britain and Ireland in a state of blockade, and all British manufactures and the produce of British colonies lawful prize. This circumstance produced a strong impression on this government, which was very seriously felt in our concerns. It seemed probable for some days that it would subject the negotiation to a long suspension, if it did not entirely defeat its object. The British commissioners informed us, that the decree of the government of France had opposed a powerful obstacle to the conclusion of any treaty with us, before our government should be consulted on the subject, and its answer obtained as to the part it might take in regard to it: that in case the United States submitted to a violation of their neutral rights by France in the manner contemplated by that decree, it would be impossible for Great Britain to respect them; that by concluding a treaty with the United States, by which they should not only bind themselves to the observance of such rights, but agree to concessions or relaxations of what they conceived to be their unquestionable rights of war, after knowing the contents of that decree, they might be understood to restrain themselves from counteracting the policy of France, which it would be improper to do, unless our government should engage to support its rights against the measures of France. In consideration of these circumstances, they proposed that we should proceed in the business so far as to agree on all the articles of the treaty, to reduce them to form, and then transmit the instrument to the United States, to become obligatory in case our government should enter into a satisfactory engagement of the kind proposed. We replied in very explicit terms to the British commissioners that we considered their proposition altogether inadmissible on our part, and not likely to accomplish, if we could agree to it, the object which they contemplated by it: that such a proposition to our government, under the

circumstances attending it, would amount, in substance, to an offer to it of the alternative between the treaty and a war with France, since, if our government refused to give the satisfaction which they desired, the treaty would be lost: and if such satisfaction was given and the treaty concluded, and France should persist to execute her decree according to the construction given of it here, war seemed to be inevitable: that if it should happen that our government should approve the treaty, it was not to be presumed that it would make any sacrifice, or stipulate any thing not contained in the instrument, especially so very important an act as that alluded to, as the condition on which it was to be obtained; that the arrangement of our differences and other concerns with Great Britain was an affair which rested on its own ground, and had no connection with our relations with France; that his majesty's government ought to suppose that the United States would not fail in any case to support with becoming dignity their rights with any power, and that it must be sensible that it would be more at liberty to enter into suitable friendly explanations with the government of France, on the subject of the decree in question, after the adjustment of their differences with Great Britain, than while they existed, as it likewise must be, that the prospect of obtaining satisfactory explanations on that point of France would be better while they acted under their own impulse as an independent and friendly power, than it would be in case they entered into an engagement of the kind proposed with her adversary. The British commissioners admitted, that these considerations were entitled to much attention: at length, however, after the subject had been, as we had reason to believe, maturely weighed in the cabinet, they informed us that their government still thought it incumbent on it to make a reservation of their right to counteract the policy of France, in case our government did not give them the satisfaction they desired, either by suitable assurances before the ratification of the treaty, or by its conduct afterwards. With this view they presented us a paper which

we have the honour to transmit with this despatch. In transmitting to you this paper, it is our duty to observe that we do not consider ourselves a party to it, or as having given it in any the slightest degree our sanction. The incident which produced the paper was unexpected on our part, and without entering into its merits, we used our best exertions to diminish its effect in relation to the objects of our negotiation. The British commissioners brought the incident into view, and made it the subject of discussion in the manner above stated, as they did the part which it became their government to take in the depending negotiation in consequence of it. We therefore thought, not only that we were at liberty, but that it was imperiously our duty, to use our best exertions to make the paper which they proposed to present to us, in reference to the decree of France, as little injurious as possible, and even to urge that decree as a strong reason why Great Britain should be more explicit and satisfactory in her definition of neutral rights, as well for the purpose of vindicating herself against the strong denunciation it contained, as to enable our government to urge with more force with the government of France its objections to the decree. We were glad to find that these remarks were not altogether without effect, as will appear by the paper referred to, especially the definition it gives of a blockade, which is tolerably correct.

You will observe, that the commerce between the United States and the British colonies, which bound them to the east and north, has not been regulated by this treaty. The British commissioners refused to agree to any arrangement of it, in consequence of our declining to admit their Canada and Hudson bay traders into Louisiana. It has occurred to us, that it might be advantageous to the United States, and consistent with the views of our government, to comprise both these objects, under suitable regulations, in a separate convention, especially if they can be made instrumental to a satisfactory establishment of our boundaries. We have reason to think, that in the form of a new

act, in connection with these other objects, it would be more agreeable to this government to settle the question of boundary, according to the views of the President and Senate, than by ratifying the convention already entered into, with the exception of the 5th article. The British commissioners have expressed their willingness to proceed in the business, for the purpose of arranging all these topics in a satisfactory manner, as lord Howick has likewise done; and it seems highly important to take advantage of this disposition, to settle amicably with this government, at the present time, every remaining cause of strife, so far as it may be practicable. Should we undertake to form such a convention, the commercial part of it will of course be limited to the same term, not to exceed that of the treaty. We shall also be attentive to the conditions on which the traders with the Indian tribes are to be admitted into Louisiana, by being particularly careful that it be done on such conditions as to render it impossible for them to do any injury. We are persuaded that such regulations might be adopted, as would, even at this time, have that effect. We are confident, that our population will have so far spread over the whole surface of that country, by the time the treaty would expire, as to supersede the necessity of renewing it.

We have the honour to be, with great consideration, &c.

JAMES MONROE,
WM. PINKNEY.

TREATY

OF AMITY, COMMERCE AND NAVIGATION, BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA.

HIS Britannic majesty and the United States of America, being equally desirous to promote and perpetuate the good understanding and friendship which happily subsist between the subjects of the united kingdom and the citizens of the United States, and for that purpose to regulate the commerce and navigation between their respective countries,

territories and people, on the basis of reciprocity and mutual convenience, have respectively named their plenipotentiaries, and have given to them full powers to make and conclude a treaty of amity, navigation and commerce, that is to say, his Britannic majesty has named for his plenipotentiaries, Henry Richard Vassall lord Holland, one of his majesty's privy council, and lord keeper of his majesty's privy seal, and William lord Auckland, one of his majesty's privy council, and president of the committee of council for all matters of trade and foreign plantations: and the President of the United States, by and with the advice of the Senate thereof, hath appointed for their plenipotentiaries, James Monroe and William Pinkney, commissioners extraordinary and plenipotentiaries; who, after having exchanged their respective full powers, have agreed on the following articles.

ARTICLE I. There shall be a firm, inviolable and universal peace, and a true and sincere friendship between his Britannic majesty, his heirs and successors, and the United States of America, and between their respective countries, territories, cities, towns and people, of every degree, without exception of persons or places.

ART. II. It is agreed that the several articles of the treaty of amity, commerce, and navigation, between his majesty and the United States, made at London, on the 19th day of November, 1794, which have not expired, nor as yet had their full operation and effect, shall be confirmed in their best form, and in their full tenour; and that the contracting parties will also, from time to time, enter into friendly explanations on the subject of the said articles, for the purpose of removing all such doubts as may arise, or have arisen as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience.

ART. III. His majesty agrees that the vessels belonging to the United States of America, and sailing direct from the ports of the said States, shall be admitted and hospitably received in all the seaports and harbours of the

British dominions in the East Indies ; and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the importation or exportation respectively, to or from the said territories, shall not be entirely prohibited. Provided, only, that it shall not be lawful for them, in any time of war between the British government and any other power or state whatever, to export from the said territories, without the special permission of the British government there, any military stores, or naval stores or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage than shall be payable on British vessels, when admitted into the ports of the United States. And they shall pay no higher or other duties or charges on the importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles, exported by them from the said British territories, to any port or place, except to some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties, as shall from time to time be found necessary to enforce the due and faithful observance of this stipulation.

It is also understood, that the permission granted by this article, is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories ; but the vessels going with their original cargoes or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British government established there ; and if any transgressions should be attempted against the regulations of the British government in this respect, the observance of the same shall and

may be enforced against the citizens of America, in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbour in the said territories, or if they should be permitted in manner aforesaid to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of whatever nature, established in such harbour, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British government may from time to time establish there.

ART. IV. There shall be, between all the dominions of his majesty in Europe, and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries respectively shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time; also to hire and possess houses, and warehouses, for the purposes of their commerce; and generally, the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries respectively.

ART. V. It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles, the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country.

Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties respectively, which shall not equally extend to all other nations. But the British government reserves to itself the right of imposing on American vessels entering into the British ports in Europe, a tonnage duty equal to that which shall at any time be payable by British vessels in the ports of America; and the government of the United States reserves to itself a right of imposing on British vessels entering into the ports of the United States, a tonnage duty equal to that which shall at any time be payable by American vessels in the British ports in Europe.

It is agreed, that in the trade of the two countries with each other, the same duties of exportation and importation on all goods and merchandise, and also the same drawbacks and bounties, shall be paid and allowed in either country, whether such importation or exportation shall be in British or American vessels.

ART. VI. The high contracting parties not having been able to arrange at present by treaty, any commercial intercourse between the territories of the United States and his majesty's islands and ports in the West Indies, agree that until that subject shall be regulated in a satisfactory manner, each of the parties shall remain in the complete possession of its rights, in respect to such an intercourse.

ART. VII. It shall be free for the two contracting parties respectively, to appoint consuls for the protection of trade, to reside in the dominions and territories aforesaid; and the said consuls shall enjoy those liberties and rights which belong to them by reason of their function. But, before any consul shall act as such, he shall be in the usual form approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper, that in case of illegal or improper conduct towards the laws or government, a consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back, the offended government assigning to the other the reasons for the same.

Either of the parties may except from the residence of consuls, such particular places as such party shall judge proper to be so excepted.

ART. VIII. It is agreed, that in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, or for other lawful cause, the said vessel shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy, or is otherwise confiscable, shall be made prize, and the vessel, unless by law subject to condemnation, shall be at liberty to proceed with the remainder of the cargo without any impediment. And it is agreed, that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

It is also agreed, that in all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial.

ART. IX. In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucissons, carriages for cannon, musket rests, bandoliers, gun powder, matches, saltpetre, balls, pikes, swords, head-pieces, cuirasses, halberts, lances, javelins, horse furniture, holsters, belts, and generally all other implements of war; as also timber for ship building, copper in sheets, sail cloth, hemp, and cordage, and in general (with the exception of unwrought iron and fir planks, and also with the exception of tar and pitch, when not

going to a port of naval equipment, in which case they shall be entitled to pre-emption) whatever may serve directly to the equipment of vessels; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy. But no vessel shall be detained, on pretence of carrying contraband of war, unless some of the above mentioned articles, not excepted, are found on board of the said vessel at the time it is searched.

ART. X. Whereas in consideration of the distance and of other circumstances incident to the situation of the high contracting parties, it may frequently happen that vessels may sail for a port or place, belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed, that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after such notice she shall again attempt to enter. But she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel, or goods of either party, that may have entered into such port or place, before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

Neither of the parties when at war, shall, during the continuance of the treaty, take from on board the vessels of the other the subjects of the opposite belligerent, unless they be in the actual employment of such belligerent.

ART. XI. Whereas differences have arisen concerning the trading with the colonies of his majesty's enemies, and the instructions given by his majesty to his cruisers in regard thereto, it is agreed that during the present hostilities all articles of the growth, produce and manufacture of Europe, not being contraband of war, may be freely carried from the United States to the port of any colony, not blockaded, belonging to his majesty's enemies, provided.

such goods shall previously have been entered and landed in the United States, and shall have paid the ordinary duties on such articles so imported for home consumption, and on re-exportation shall after the drawback remain subject to a duty equivalent to not less than one per cent. ad valorem, and that the said goods and the vessels conveying the same shall, from the time of their clearance from the American port, be bona fide the property of citizens and inhabitants of the United States; and in like manner that all articles not being contraband of war, and being the growth and produce of the enemy's colonies, may be brought to the United States, and after having been there landed, may be freely carried from thence to any port of Europe, not blockaded, provided such goods shall previously have been entered and landed in the said United States, and shall have paid the ordinary duties on colonial articles so imported for home consumption, and on re-exportation shall, after the drawback, remain subject to a duty equivalent to not less than two per cent. ad valorem; and provided that the said goods, and the vessel conveying the same, be bona fide the property of citizens and inhabitants of the United States.

Provided always, that this article, or any thing therein contained, shall not operate to the prejudice of any right belonging to either party, but that after the expiration of the time limited for the article, the rights on both sides shall revive and be in full force.

ART. XII. And whereas it is expedient to make special provisions respecting the maritime jurisdiction of the high contracting parties on the coasts of their respective possessions in North America, on account of peculiar circumstances belonging to those coasts, it is agreed that in all cases where one of the said high contracting parties shall be engaged in war and the other shall be at peace, the belligerent power shall not stop, except for the purpose hereafter mentioned, the vessels of the neutral power, or the unarmed vessels of other nations, within five marine miles from the shore belonging to the said neutral power on the American seas.

Provided, that the said stipulations shall not take effect in favour of the ships of any nation or nations, which shall not have agreed to respect the limit aforesaid, as the line of maritime jurisdiction of the said neutral state. And it is further stipulated, that if either of the high contracting parties shall be at war with any nation or nations, which shall not have agreed to respect the said special limit or line of maritime jurisdiction herein agreed upon, such contracting party shall have the right to stop or search any vessel beyond the limit of a cannon shot, or three marine miles from the said coasts of the neutral power, for the purpose of ascertaining the nation to which such vessel shall belong; and with respect to the ships and property of the nation or nations not having agreed to respect the aforesaid line of jurisdiction, the belligerent power shall exercise the same rights as if this article did not exist; and the several provisions stipulated by this article shall have full force and effect only during the continuance of the present treaty.

ART. XIII. With respect to the searching of merchant ships, the commanders of ships of war and privateers shall conduct themselves as favourably as the course of the war then existing may possibly permit towards the most friendly power that may remain neuter, observing as much as possible the acknowledged principles and rules of the law of nations: and for the better security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war and privateers, and all others the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be compel-

led to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of two thousand pounds sterling; or if such ship be provided with above one hundred and fifty seamen, or soldiers, in the sum of four thousand pounds sterling, to satisfy all damages and injuries which the said privateers or officers, or men, or any of them, may do or commit during their cruise, contrary to the tenour of this treaty, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

It is also agreed, that whenever a judge of a court of admiralty, of either of the parties, shall pronounce sentence against any vessel or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings to the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel without the smallest delay, he paying all legal fees and demands for the same.

ART. XIV. It is farther agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens or towns, or permit any of their inhabitants to receive, protect, harbour, conceal or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandises taken by them and brought into the port of either of the said parties, shall be seized as far as they can be discovered, and shall be restored to the owners or the factors or agents duly deputed, and authorized in writing by them, (proper evidence being shewn in the court of admiralty for proving the property) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

ART. XV. It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act, from any foreign prince or state, enemies to the other party, nor shall the enemies of one of the parties be permitted to invite or endeavour to enlist in the military service, any of the subjects or citizens of the other party: And the laws against all such offences and aggressions shall be punctually executed; and if any subject or citizen of the said parties respectively shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen, having such commission, or letters of marque, as a pirate.

ART. XVI. It is expressly stipulated, that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ART. XVII. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and government of the country. The officers shall be treated with that respect which is due to the commissions which they bear; and if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And both contracting parties agree that in case any vessel of the one should, by stress of weather, danger from enemies, or other misfortunes, be reduced to the necessity of seeking shelter in any of the ports of the other, into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the government of the

place, be hospitably received, and permitted to refit, and to purchase at the market price such necessaries as she may stand in need of, conformably to such orders and regulations as the government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted; nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ART. XVIII. It shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any power or state in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that prince or state from whom they obtained their commissions.

ART. XIX. It shall be lawful for the ships of war and privateers belonging to the said parties respectively, to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any fees to the offices of the admiralty, or to any judges whatever, nor shall the said prizes, when they arrive at and enter the ports of the said parties, be detained or seized, nor shall the searchers or other officers of those places visit such prizes (except for the purpose of preventing the carrying of any part of the cargo thereof on shore in any manner contrary to the established laws of revenue, navigation, or commerce,) nor shall such officers take cognizance of the validity of such prizes, but they shall be at liberty to hoist sail, and depart, as speedily as may be, and carry their said prizes to the places mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to shew.

No shelter or refuge shall be given in their ports to such

as have made a prize upon the subjects or citizens of either of the said parties; but if forced by stress of weather or the dangers of the sea to enter them, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible: nothing in this treaty contained shall however be construed to operate contrary to the former and existing publick treaties with other sovereigns or states: but the two parties agree, that while they continue in amity, neither of them will in future make any treaty, that shall be inconsistent with this or the preceding articles.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other, to be taken within cannon shot of the coast, nor within the jurisdiction described in article 12, so long as the provisions of the said article shall be in force, by ships of war, or others having commissions from any prince, republick, or state whatever: but in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavours to obtain from the offending party, full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. xx. If at any time a rupture should take place (which God forbid) between his majesty and the United States, the merchants and others of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade so long as they do it peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective governments should think proper to order them to remove, the term of twelve months, from the publication of the order, shall be allowed them for that purpose, to remove with their families, effects, and property. But this favour shall not be extended to those who shall act contrary to the established laws; and, for greater certainty, it is declared, that such rupture shall not be deemed to exist while negotiations for accommodat-

ing differences shall be depending, nor until the respective ambassadors or ministers, if such there shall be, shall be recalled or sent home on account of such differences, and not on account of personal misconduct, according to the nature and degree of which both parties retain their rights, either to request the recall, or immediately to send home the ambassador or minister of the other; and that without prejudice to their mutual friendship and good understanding.

ART. XXI. It is further agreed that his majesty and the United States, on mutual requisitions by them respectively, or by their respective ministers, or officers authorized to make the same, will deliver up to justice all persons, who, being charged with murder or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other; provided, that this shall only be done on such evidence of criminality, as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition, and receive the fugitive.

ART. XXII. In the event of a shipwreck happening in a place belonging to one or other of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects which they shall have thrown out of the ship into the sea shall not be concealed, nor detained, nor damaged, under any pretext whatever. On the contrary, the above mentioned effects and merchandise shall be preserved, and restored to them, upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, and effects.

ART. XXIII. And it being the intention of the high contracting parties, that the people of their respective dominions shall continue to be on the footing of the most favoured nation, it is agreed, that in case either party shall hereafter grant any additional advantages in naviga-

tion or trade, to any other nation, the subjects or citizens of the other party shall fully participate therein.

ART. XXIV. The high contracting parties engage to communicate to each other, without delay, all such laws as have been or shall be hereafter enacted by their respective legislatures, as also all measures which shall have been taken for the abolition or limitation of the African-slave trade; and they further agree to use their best endeavours to procure the co-operation of other powers for the final and complete abolition of a trade so repugnant to the principles of justice and humanity.

ART. XXV. And it is further agreed, that nothing herein contained shall contravene or affect the due execution of any treaty or treaties, now actually subsisting between either of the high contracting parties and any other power or powers.

ART. XXVI. This treaty, when the same shall have been ratified by his majesty, and by the President of the United States, with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on his majesty, and on the said states, for ten years, from the date of the exchange of the said ratification, and shall be reciprocally executed and observed with punctuality and the most sincere regard to good faith.

In faith whereof, we, the undersigned plenipotentiaries on the part of his majesty, the king of Great Britain, and the commissioners extraordinary and plenipotentiaries on the part of the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal of our arms. Done at London, this thirty-first day of December, one thousand eight hundred and six.

[L.S.] (*Signed*)

VASSALL HOLLAND,

[L.S.] (*Signed*)

AUCKLAND.

[L.S.] (*Signed*)

JAS. MONROE,

[L.S.] (*Signed*)

WM. PINKNEY.

LONDON, DEC. 31, 1806.

THE undersigned Henry Richard Vassall Lord Holland, and William Lord Auckland, plenipotentiaries of his Britannic majesty, have the honour to inform James Monroe and William Pinkney, commissioners extraordinary and plenipotentiaries of the United States of America; that they are now ready to proceed to the signature of the treaty of amity, commerce and navigation, on the articles of which they have mutually agreed.

But at the same time, they have it in command from his majesty, to call the attention of the commissioners of the United States, to some extraordinary proceedings which have lately taken place on the continent of Europe, and to communicate to them officially the sentiments of his majesty's government thereupon.

The proceedings alluded to are certain declarations and orders of the French government issued at Berlin on the 21st of November last.

In those orders, the French government seeks to justify or palliate its own unjust pretensions, by imputing to Great Britain principles which she never professed, and practices which never existed. His majesty is accused of a systematic and general disregard of the law of nations, recognised by civilized states, and more particularly of an unwarrantable extension of the right of blockade; whereas his majesty may confidently appeal to the world, on his uniform respect for neutral rights, and his general and scrupulous adherence to the law of nations, without condescending to contrast his conduct in these particulars with that of his enemy; and with regard to the only specific charge, it is notorious that he has never declared any ports to be in a state of blockade, without allotting to that object a force sufficient to make the entrance into them manifestly dangerous.

By such allegations, unfounded as they are, the enemy attempts to justify his pretensions of confiscating, as lawful prize, all produce of English industry or manufacture,

though it be the property of neutrals ; of excluding from his harbours every neutral vessel which has touched at any port of his majesty's dominions, though employed in an innocent commerce, and of declaring Great Britain to be in a state of blockade, though his own naval ports and arsenals are actually blockaded, and he is unable to station any naval force whatever, before any port of the united kingdom.

Such principles are in themselves extravagant and repugnant to the law of nations ; and the pretensions founded on them, though professedly directed solely against Great Britain, tend to alter the practice of war among civilized nations, and utterly to subvert the rights and independence of neutral powers. The undersigned cannot, therefore, believe, that the enemy will ever seriously attempt to enforce such a system. If he should, they are confident that the good sense of the American government will perceive the fatal consequences of such pretensions to neutral commerce, and that its spirit and regard to national honour will prevent its acquiescence in such palpable violations of its rights, and injurious encroachments on its interests.

If however the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, his majesty might probably be compelled, however reluctantly, to retaliate in his just defence, and to adopt, in regard to the commerce of neutral nations with his enemies, the same measures which those nations shall have permitted to be enforced against their commerce with his subjects. The commissioners of the United States will therefore feel, that at a moment when his majesty and all neutral nations are threatened with such an extension of the belligerent pretensions of his enemies, he cannot enter into the stipulations of the present treaty, without an explanation from the United States, of their intentions, or a reservation on the part of his majesty in the case abovementioned, if it should ever occur.

The undersigned considering that the distance of the

American government renders any immediate explanation on this subject impossible, and animated by a desire of forwarding the beneficial work in which they are engaged, are authorized by his majesty to conclude the treaty without delay. They proceed to the signature under the full persuasion that before the treaty shall be returned from America with the ratification of the United States, the enemy will either have formally abandoned or tacitly relinquished his unjust pretensions, or that the government of the United States, by its conduct or assurances, will have given security to his majesty that it will not submit to such innovations in the established system of maritime law: and the undersigned have presented this note from an anxious wish that it should be clearly understood on both sides, that without such an abandonment on the part of the enemy, or such assurances, or such conduct on the part of the United States, his majesty will not consider himself bound by the present signature of his commissioners to ratify the treaty, or precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy.

The undersigned cannot conclude without expressing their satisfaction at the prospect of accomplishing an object so important to the interests and friendly connection of both nations, and their just sense of the conciliatory disposition manifested by the commissioners of the United States during the whole course of the negotiation.

... (Signed)

VASSALL HOLLAND.
AUCKLAND.

To James Monroe, &c. &c. &c.

William Pinkney, &c. &c. &c.

[COPY.]

LONDON, MARCH 14, 1807.

MY LORD,

IN conformity with the intimation which your lordship was so good as to make to us at a late interview, relative to certain claims and prize causes, which had been brought into discussion in the course of the late negotiation between

his majesty's commissioners, and those of the United States, we have the honour to transmit to your lordship the copy of a note to lord Holland and lord Auckland, in which those claims and prize causes are fully explained. It is proper to add, that at the time of the signature of the treaty it was distinctly understood between the commissioners on both sides, that this subject was not to be affected by it, but was to remain completely open for future adjustment.

We leave it upon the statement contained in that note and the documents to which it refers, in perfect confidence that it will be viewed by your lordship with the interest which belongs to it, and that every thing which is suitable to the high and honourable character of his majesty's government, and the just claims of the United States, will be done with relation to it, as promptly as circumstances will permit.

We have the honour to be, &c.

(Signed)

JAMES MONROE.

WILLIAM PINKNEY.

The Rt. Hon. LORD VISCOUNT HEWICK, &c. &c. &c.

[COPY.]

LONDON, AUGUST 20, 1806.

THE undersigned commissioners extraordinary and plenipotentiary of the United States of America, think it necessary to give to lord Holland and lord Auckland, the commissioners extraordinary and plenipotentiary of his majesty, a brief explanation in writing of the claims, which they have already had the honour to mention to their lordships in a recent conference, of sundry American citizens, for suitable compensation for losses and damages sustained in the course of the present war, by reason of irregular or illegal captures or condemnations of their vessels and other property, and at the same time to call the attention of their lordships to the situation of certain prize causes, arising out of some of these captures, now depending in the tribunals of this country.

The undersigned are happy in having it in their power to state that, according to the information they have been

able to obtain, such of these claims as relate to captures, which, from causes peculiar to themselves, have excited in America a more than ordinary degree of sensibility, are not so considerable in number as was at first supposed.

The complaints of this description, to which the undersigned would particularly invite the attention of their lordships, have been produced by seizures as prize, made in direct violation of rules of maritime practice, previously declared by his majesty's government to the government of the United States, and in no degree revoked or affected by any arrangement between them, or even by any notification, that they were about to be abandoned.

Of these seizures, the most important, and in every view the most interesting, were made in the year 1805, and in the early part of the year 1806, of the ships and merchandise of American citizens, upon the pretension, that the voyages in which they were engaged were direct or continuous between the colonies of his majesty's enemies and some port in Europe.

Although it is certain that the government of the United States has never admitted that illegality can be imputed to such a trade, even when confessedly continuous or direct, and had concluded that the question had been otherwise formally settled in its favour, the undersigned believe it to be unnecessary to bring that point into view with any reference to the cases now under consideration. It is sufficient to state that, at the date of these seizures the merchants of the United States did explicitly understand, and were justified in a confident belief, founded not only upon antecedent practice, but upon a formal communication, in the year 1801, to the American minister in London from his majesty's principal secretary of state for the department of foreign affairs, that the circumstances, by which these voyages were accompanied, had been, and were distinctly admitted by the British government, and by British courts of prize, to break their continuity, and render them unquestionably lawful.

The following detail will show more precisely the nature and effect of the communication to which the undersigned allude.

The publick and private armed ships of this country having seized American vessels, bound from the United States to the Spanish West Indies, on the pretext that their cargoes consisted of articles of the growth of Spain, then at war with Great Britain, and the vice-admiralty court of Nassau having condemned the cargo of one of these vessels upon that pretext, Mr. King, in a note to lord Hawkesbury of the 18th of March, 1801, remonstrated against these acts as palpable abuses. The subject of this remonstrance was immediately referred to the king's advocate, whose report of the 16th of March, 1801, after declaring that the sentence of the vice-admiralty court was erroneous, concludes with the following exposition of the law as understood in Great Britain, relative to the commerce of neutrals with belligerents and their colonies. "It is now distinctly understood, and has been repeatedly so decided by the high court of appeal, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence, even to the mother country of such colony; and in like manner the produce and manufactures of the mother country may, in this circuitous mode, legally find their way to the colonies. The direct trade, however, between the mother country and its colonies has not, I apprehend, been recognised as legal, either by his majesty's government, or by his tribunals."

"What is a direct trade, or what amounts to an intermediate importation into the neutral country, may sometimes be a question of some difficulty. A general definition of either, applicable to all cases, cannot well be laid down. The question must depend upon the particular circumstances of each case. Perhaps the mere touching in the neutral country, to take fresh clearances, may properly be considered as a fraudulent evasion, and is in effect the direct trade; but the high court of admiralty has ex-

pressly decided (and I see no reason to expect that the court of appeal will vary the rule) that landing the goods and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and be forwarded for sale to the mother country or the colony."

An extract from this report, containing the foregoing passage, was transmitted by the duke of Portland, in a letter of the 30th March, 1801, to the lords commissioners of the admiralty. His grace's letter concludes thus: "In order, therefore, to put a stop to the inconveniences arising from these erroneous sentences of the vice-admiralty courts, I have the honour to signify to your lordships the king's pleasure that a communication of the doctrine laid down in the said report should be immediately made by your lordships to the several judges presiding in them, setting forth what is held to be the law upon the subject by the superior tribunals, for their future guidance and direction."

On the 11th of April, 1801, lord Hawkesbury communicated to Mr. King, for the information of the government of the United States, a copy of the above letter of the duke of Portland, which is stated by his lordship to have been written by his majesty's command, in consequence of Mr. King's representation of the preceding month, together with a copy of the extract from the report of the king's advocate, referred to in his grace's letter, and already above quoted. Upon the receipt of this communication, Mr. King transmitted it to his government in a letter (of which a copy is annexed) containing the following observations: "I take the liberty of suggesting the expediency of publishing these copies in our newspapers, as the most expeditious means of communicating the same to the cruising ships and privateers in the American seas. Having intimated this suggestion to lord Hawkesbury before he prepared and sent me his answer, there can be no

exceptions here against such a publication." The publication was directed, and took place accordingly.

The undersigned are persuaded that lord Holland and lord Auckland will at once perceive that the report of the king's advocate, thus unequivocally adopted by his majesty's government, and communicated, as an act to be respected and confided in, through the American minister, to the government of the United States, and finally to their citizens and to Europe, through the medium of a publication expected and authorized, cannot, in any fair construction, be viewed as any thing short of a formal declaration, on the part of Great Britain, "that the landing of the cargo and the payment of the duties in the neutral country, would be considered as legalizing the circuitous trade, even between a belligerent and its own colonies.

The practice during the late, and the two first years of the present war, was in perfect conformity with this document, and by that conformity increased its authority, and furnished an additional justification, if any had been required, for a dependence upon the doctrine which it announced.

In the summer of 1805, however, when a large amount of American property was afloat, undeniably entitled to the protection of the above rule, and committed to the high seas under an implicit reliance upon a strict adherence to it, the rule was suddenly abandoned, and British cruizers fell upon this trade, thus sanctioned by the express admission, as well as by the acquiescence of their government; and these captures are understood to have received the highest judicial sanction.

The undersigned have no desire to dwell upon this subject. They are convinced that the liberal and equitable sentiments which distinguish his majesty's government, render unnecessary the farther explanations of which it is susceptible. Referring to two notes from the undersigned Mr. Monroe, to lord Mulgrave, of the 23d of September, 1805, and to Mr. Fox, of the 25th of February, 1806, the undersigned have only to declare their sincere conviction

that his majesty's government will not fail to see, in the facts which they have had the honour to state, an irresistible call upon it to repair the injurious effects of these seizures. As to the few cases of this class, now depending before the lords commissioners of appeal, or in other prize courts of his majesty, the undersigned feel assured that measures will be taken to cause them to be favourably disposed of, and that suitable reparation will moreover be secured to the parties injured for the loss and damage they have sustained. The undersigned have the honour to transmit herewith a list of all the cases of this class, in which are distinguished such as are still judicially depending.

The next class of these cases (of which lists and estimates will hereafter be furnished) comprehends captures, during the existing war, contrary to the tenour of a letter of the 5th January, 1804, from sir Evan Nepean to Mr. Hammond, on the subject of the blockade of Martinique and Guadaloupe, of which a copy was enclosed in a letter of the 12th of April, 1804, from Mr. Merry to Mr. Madison, of both of which letters copies are herewith transmitted.

The citizens of the United States complain that they have suffered severely by captures, in violation of the rules laid down with so much fairness and precision in this communication, and that, where condemnations have not followed, compensation equivalent to the actual loss has not been, and cannot be procured in the ordinary course, by any exertions on their part. The pretext for some of these captures has been the breach of an alleged blockade of Martinique or Guadaloupe; for others, the breach of an imaginary blockade of Curracoa; and for others the breach of an equally imaginary blockade of other ports and places. In all of these cases, either the actual investment of the particular port was wanting, or the vessel, seized for an imputed criminal destination to it, had not been warned as required. The just extent of these claims the undersigned are not able to state; but they presume that it cannot be considerable.

The only remaining claims, which are reducible to any precise class, are these which relate to captures within the territorial jurisdiction of the United States. Of these, as well as some others of a miscellaneous nature, which the undersigned have not at present the means of presenting distinctly to lord Holland and lord Auckland, lists shall hereafter be prepared, and laid before their lordships, accompanied by suitable explanations.

The undersigned request lord Holland and lord Auckland to accept the assurance of their perfect consideration.

(Signed)

JAMES MONROE,
WM. PINKNEY.

An extra official communication with regard to the Canada trade.

A MEMORIAL has been presented to lord Holland and lord Auckland, on the part of the Canada merchants, setting forth a variety of injuries which they complain of having sustained from the government and servants of the United States, and praying that their complaints may be attended to, and redress obtained for them in the discussions which are at present pending between the American and British commissioners.

The injuries brought forward on their memorial may be reduced to the three following heads:

1st. Their exclusion from Louisiana.

2d. Their being made to pay higher duties for the goods they import into the United States from Canada, than the duties payable by the citizens of the United States on the importation of the same goods in American vessels into the Atlantic ports of the United States.

3d. Certain minor grievances which they contend to be in like manner contrary to the letter and spirit of the treaty of 1794.

By the 3d article of the treaty of 1794, it is agreed that it shall at all times be free to his majesty's subjects, and to the citizens of the United States, freely to pass and re-pass,

by land or inland navigation, into the respective territories and countries of the two parties on the continent of America, and to navigate all the lakes and waters thereof, and freely to carry on trade with each other.

But notwithstanding this express stipulation, which secures to his majesty's subjects without limitation or reservation the right of commercial intercourse by land or inland navigation with all the territories of the United States, on the continent of America, the governor of Louisiana has thought proper to exclude them from the commerce of that extensive province, unless they abjure their allegiance to his majesty and take an oath of-allegiance to the United States; and the same governor has also taken it upon him to prohibit the introduction of any goods or merchandise, which are not the property of citizens of the United States.

This arbitrary proceeding, besides being a direct violation of the treaty of 1794, is highly detrimental to the private interests of the Canada merchants, for it excludes them from a country where they have been carrying on trade successfully for many years, without interruption from the Spaniards, having latterly pushed their commercial posts even to the banks of the Missouri, and augmented the sale of their goods in Louisiana, to the amount of about £40,000 or £50,000 annually.

By the second paragraph of the 8d article of the treaty of 1794, it is agreed, that all goods and merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purpose of commerce, be carried into the same, in the manner aforesaid, by his majesty's subjects, and such goods or merchandise shall be subject to no higher duties than those payable by citizens of the United States, on the importation of the same in American vessels into the Atlantic ports of the said states.

But notwithstanding this stipulation, that the duties on goods imported into the United States from Canada shall be no higher than the duties paid for the same goods when imported in American vessels into the Atlantic ports of the

United States, the custom house officers of the inland ports practise a mode of estimating the duties on goods imported from Canada, which has the effect of raising the duty on the prime cost of these goods to £ 22 per cent. instead of £16 10 per cent. which is the amount of the duty payable on the same goods, when imported in American vessels into the Atlantic ports of the United States.

As these goods are destined ultimately for the Indian market, this difference gives a decided advantage in that commerce to the citizens of the United States over the subjects of his majesty, contrary to the spirit and obvious meaning of the treaty of 1794, the basis of which, in all its stipulations with regard to the Indian trade, were impartiality, equality, and reciprocity of advantages.

The manner in which this evasion of the treaty is effected, will appear from the account given of it by the Canada merchants, in their memorial above referred to.

They state, " that by the revenue laws of the United States, all goods imported into their territory, not charged with a particular duty, pay a duty of fifteen per cent. ad valorem, excepting goods from the Cape of Good Hope, and from the countries beyond it; that in calculating this duty, 10 per cent. is first added to the prime cost of the goods, and the duty afterwards calculated on the amount in the following manner :

Prime cost	-	-	-	£100
10 per cent. added	-	-	-	10
				<hr/>
				£110

15 per cent. duty on £110	-	16 10
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But that in estimating the duty on goods imported from Canada, the custom house officers add 10 per cent. not to the prime cost, but to their value at Montreal, where it is the custom for merchants to add $33\frac{1}{3}$ per cent. to the prime cost in Europe, as an equivalent for the expense and risk of transporting them so far, and that proceeding on this principle, the duties on goods imported into the United States from Canada are calculated in the following manner :

Prime cost in Europe	-	-	£100
Additional charge at Montreal	-	-	33 6 8
			<hr/>
			133 6 8
Additional 10 per cent.	-	-	13 6 8
			<hr/>
			146 13 4

Duty of 15 per cent. on £146 13 4 amounts to £22: so that the same goods which pay a duty of only 16s. 8d. when imported by an American dealer, pay a duty of £22 when brought to the same market by a British dealer, contrary to the obvious spirit and meaning, and to the express stipulation of the treaty of 1794.

Under the third head of minor grievances are to be classed the following: 1st. Though British subjects are entitled, in the terms of the treaty of 1794, "freely to pass and repass by land or inland navigation into the territories of the United States," yet they are obliged to pay £6 for a license to trade with the Indians within the boundaries of the U. States by the servants of the States; and when they arrive at the American ports in the interior, they are often compelled to dismiss their canoe men, and to hire others at a great expense and inconvenience.

2d. Though it is agreed in the treaty "that no duties shall be payable on any goods which shall merely be carried over any of the portages, or carrying places, on either side, for the purpose of being immediately re-embarked and carried to some other place or places," yet various attempts have been made to collect such duties at the American portages, which have at length compelled the British traders to abandon the *grand portage*, and to establish a new portage at Kiminesti, within the British line.

Though the arrangement of the Indian trade by the treaty of 1794 was "intended to render in a great degree the local advantages of each party common to both, and thereby to promote a disposition favourable to friendship and good neighbourhood," yet the revenue officers of the United States, without considering the difficulty of observ-

ing in the lakes and rivers of Canada those regulations with regard to the approach to shores and ports, which are applicable to the ports of the ocean, have, in many instances, and in particular in the case of the two *batteaux* stopped at Michilimackinac, manifested a disposition to harass and impede the trade of British merchants on pretences the most frivolous and unfounded, and in a manner equally vexatious and injurious to them.

[DUPLICATE.]

LONDON, APRIL 22, 1807.

SIR,

WE had the honour to receive your letter of Feb. 3d, on the 6th instant, and are now to give you a detail of the measures we have pursued in obedience to the instructions it communicated.

To enable you to form a just idea of those measures, it will be proper to state concisely what had occurred at the time of receiving your letter, after the departure of Mr. Purviance with the treaty, and our despatch of the 3d of January.

Soon after that date we resumed our conferences with the British commissioners, as we intimated it was our intention to do, and had nearly digested with them the project of a supplemental convention upon the principal topics alluded to in the last paragraph of that despatch, when an entire change took place in the British ministry: lord Grenville and his associates being compelled to retire in favour of the friends of the late Mr. Pitt. This change, of course, suspended the farther progress of the business, and in that state it still remains.

Before this change in the administration, we had presented to the British commissioners, according to an agreement which accompanied the signature of the treaty, an antedated note on the subject of indemnity, and another to lord Howick on the same subject, previously seen and approved by the British commissioners. With these papers, (of which copies are now transmitted) the British commis-

abolition not only expressed their perfect satisfaction, but assured us then, as they have frequently done since, that the just confidence with which that agreement had inspired us, in regard to its object, would not be disappointed.

We had many conferences with the British commissioners, previous to the late change, upon the subject of improvements, in which they invariably declared to us, that the practice of their government would be strictly conformable to the spirit of the article which they had settled with us, and which was afterwards rejected by the cabinet. They stated, that the prejudice of the navy, and of the country generally, was so strong in favour of their pretension, that the ministry could not encounter it, in a direct form; and that, in truth, the support of parliament could not have been relied on in such a case. It was their idea that, by discontinuing the practice in the mode proposed by them, which might be done without giving any shock to the public feeling, this prejudice might be gradually overcome, and an arrangement by treaty on this very delicate and difficult subject rendered ultimately practicable. The United States would in the interim enjoy the security they sought, without any abandonment of their rights, and be induced to yield in return, as their confidence increased, the equivalents which we had offered in our project.

The footing upon which the note of the British commissioners (which is and must be considered as equally obligatory as if actually inserted in the treaty) left this point, was supposed to be the less liable to exception on our part, because, while it affords a pledge, unquestionably intended to secure the substance of our object, and constantly admitted here to be equal to that effect, it keeps it, nevertheless, for our advantage, completely open for future negotiation and more formal adjustment. The note declares that the discussion of any plan will be entertained that can be devised "to secure the interests of both states, without injury to rights to which they are respectively attached," and consequently provides for a renewal of negotiation with a sincere view to such an arrangement as shall be practically

consistent with the declared pretensions of the U. States, and yet leave untouched the British principle; or, in other words, an arrangement, in which Great Britain shall agree to conform her conduct to our views, without renouncing the claim which she has hitherto maintained and acted upon. It was supposed, therefore, to be the clear import of that note, that the conduct of Great Britain would not, while the discussion of such a plan as it might be proper to insert in a treaty stood postponed at the request of its commissioners, encroach in practice upon rights, which we had so strongly asserted and vindicated as rights not to be abandoned, which it was well understood our government and country would not suffer to be invaded in future as they had been during the past, and which the British commissioners themselves, acting under the immediate orders of the cabinet, had in their note distinctly recognised as fit to be preserved hereafter from injury and violation. This conclusion was thought to be the more just and natural, when it was remembered that it was supported, not only by the verbal admissions and declarations of the British commissioners, which would of course, as they well knew, be reported to our government, but by the language of such parts of the note as looked particularly to the future practice of Great Britain on the subject of impressments. It was believed to be fortified too by the obvious consideration, that the United States would be authorized, notwithstanding any adjustment by treaty upon other points, in case of the impressment on the high seas of a single mariner from on board an American vessel, to view it as an act of aggression, and to resent it accordingly. This right existed, undoubtedly, independently of that note; but it seemed notwithstanding to derive from it a new and high sanction favourable to its just effect: and certainly the sensibility and determination which have been manifested on this point by the United States, especially of late, and by the American commissioners during the recent negotiation, must have inspired this government with the conviction, that a perseverance

in such outrages upon their sovereignty and the rights of their citizens, would be wholly incompatible with the peaceful relations of the two countries, which it was the professed object of the British commissioners and their government to preserve. It is proper, however, for us to state, that it was our intention to have requested of this government written explanations on this topic of impressment, as well as on that of indemnity, for the purpose of transmitting them to you. The approaching departure of Mr. Monroe for the United States would, it was thought, furnish a suitable occasion for such an application.

Towards the end of the last month, the change took place in the ministry, and on the 27th the diplomatic corps had their first interview with Mr. Canning, who succeeded Lord Howick in the foreign department. Although the meeting was general, a separate audience was given, as is usual, to the representatives of each power. At Mr. Canning's request, we gave him a concise, but just view of the state of the business between our governments. He appeared not to have heard before of what had taken place relative to the project of a supplemental convention. He said that he had come too recently into office to be able to say any thing decisive on any of the topics, of which we had given him a sketch, but that he would soon make himself acquainted with them, and give us another interview. His professions, which were of a general nature, were conciliatory.

Such was the state of affairs when we had the honour to receive your letter of February the 3d. We were anxious to carry into effect the instructions contained in that letter, in the best manner in our power, and with the least possible delay. It became especially our duty to make known to the new ministry, as soon as we might be able, the understanding which had subsisted between the British commissioners, and through them the late cabinet, and us, as to the condition on which we had consented to continue the negotiation, after our project relative to impressments had been rejected; that in fact we had no authority to treat after that event; and that our government was

not bound, or supposed or intended to be bound, to ratify what we had done, if it disapproved of it. We were equally desirous of turning to the best account the appeal which a refusal to ratify by our government would make to the interests of this country, in an effort to arrange by treaty this great point with the new ministry. The first measure seemed to be free from difficulty. The statement proposed was an act of justice to our government, and of duty to it and our country, which might be discharged without the slightest hazard to the publick interest. Indeed, as it was presumable that this government would soon receive intelligence from Mr. Erskine, which, without such an explanation, could hardly fail to produce an unfavourable effect, it appeared to be indispensably necessary to make it, to prevent a publick injury. The second object, however, was evidently involved in more difficulty. From what we had seen, in the debates in parliament, of the disposition of several of the members of the new ministry, before they came into power, on subjects which were connected with our treaty, independent of other causes, we had reason to believe that great caution ought to be observed in any communication which we might make to it on that point. Although lord Holland and lord Auckland had retired from their offices of lord privy seal and president of the board of trade, they still retained their situations as commissioners extraordinary and plenipotentiary, and, as we presumed, would continue to do so until the business, in which we had been engaged with them, should be concluded. In every view it seemed to be just and expedient to confer with them on the subject of our late despatch. We accordingly obtained an early interview, in which we communicated, in confidence, the substance of that despatch, as well in conformity with the orders of the President, as in the hope that they might be able to assist us in the accomplishment of its objects. But we found them under circumstances of such peculiar delicacy with the new ministry, that it was not in their power to give us the slightest aid. They informed us that, on

the exchange of ministers, lord Howick had communicated to Mr. Canning the state in which our business stood, and more particularly the progress which had been made in the proposed plan of a convention, in the expectation that he would have requested them to proceed in it; that, however, no such request had been made, in consequence of which they should feel it their duty, in case he continued silent, to withdraw from the commission. They expressed their regret that they had not been able to arrange with us by treaty the subject of impressment, as they wished to have done; but assured us that the order which they had engaged should be issued in their note of November 8, had been actually issued about that time, and in terms calculated, as they had understood, to accomplish the object desired. They saw no objection to our being furnished with a copy of that order, and presumed that it might still be obtained. In adverting to the understanding which had subsisted between us on the failure of the article which had been submitted to the cabinet for providing against impressments at sea, we were happy to find that they retained a perfect recollection of it in the sense in which we have stated it above. They admitted that we had a right to expect from the new ministry an explanation of its views relative to the project of a convention, and to indemnity and impressment, from the particular state in which those great subjects were left, and the claims which we had on the government from what had been done in them. Of our prospect of making with the present ministry a satisfactory arrangement against impressments by treaty they said nothing, but they repeated what they had often said before, that they had done all on that point in their power, and declared it as their opinion, that, if their friends had remained in office, well disposed as they knew them to be towards the United States, the mode in which we were now about to pursue this object would not tend to produce, in that, or any other respect, a favourable effect. They could therefore give us no advice as to the part which it became us to take in the present juncture. They inti-

mated, however, that by obtaining an interview and conferring with Mr. Canning we might probably ascertain the sentiments of his government on the whole subject, and be enabled thereby to pursue the course which would be best adapted to the spirit of our instructions and the interests of our country.

Immediately after our interview with the British commissioners we asked one of Mr. Canning, which was obtained on the instant. It was our intention to have confined ourselves in the first instance to the topics above mentioned, and to the information which we thought it our duty to give him of the understanding which had subsisted between the British commissioners and ourselves, of the condition on which we had proceeded to the other points of the negotiation, after the project of an article relative to impressments had been rejected. As soon, however, as we glanced at the objects of the interview, he observed that he had just received intelligence which, if true, would make it unnecessary for us to enter at present on any of the topics alluded to: that it had been represented to him that an officer, just arrived from America, had that morning informed the admiralty that the treaty which had been lately concluded here had been rejected by our government; that he had not seen the officer, and therefore could not state the grounds on which the information rested. He observed that such an event would place the relations of the two countries in an embarrassing situation, and wished to know whether we had received any intelligence of a like import. We perceived at once, that the important feature in your despatch of February 3d, respecting the disclosure of which to the new ministry we had entertained some doubt, was not only either already known to it, or soon would be, but that inferences of a dangerous tendency were likely to be drawn from the refusal of our government to ratify the treaty, in case it should occur, which such an event could not justify. We saw, therefore, the necessity of communicating to Mr. Canning immediately, the substance of that despatch, as well for the purpose of preventing these

errors, as to obey the instructions contained in it, over which, in the respect alluded to, we should have exercised any discretion with great reluctance. We assured Mr. Canning, that there could have been no foundation for the report of the rejection of the treaty, as we were satisfied that Mr. Parviance, who had carried it to our government, could not have arrived in the United States in time to enable the President to submit it to the consideration of the Senate, before the 3d of March, when Congress must have adjourned; and that he must be sensible, that, until the receipt of our despatch, no step, at least of so decisive a character would be taken in the business. We stated, however, that we had great reason to believe that the treaty would not be ratified in its present form, for a cause which was well known to his majesty's late government. We then communicated to him fully all the circumstances on which that remark was founded, particularly the nature of our instructions relative to impressments; the knowledge which the British commissioners had of them; the entire suspension of the negotiation at a certain period, on the failure with the cabinet of a project of an article for the regulation of that point; the considerations which induced us afterwards to proceed in the negotiation, founded on the note of the British commissioners of the 8th of November, the nature of which we fully explained; and finally the condition on which we did proceed in the business, that is, that our government would not be bound to ratify the treaty, if it should not be satisfied with the substitute for such an article offered in that note. He asked us, in case the treaty should not be ratified, in what state our government wished to place the relations of the two countries. We replied that it was its wish that the subject of impressment should be resumed and arranged: we explained to him the nature of the article, on the failure of which the negotiation had been suspended, and showed that Great Britain would gain by it much more than an equivalent for the forbearance of the practice of which we complained, independent of the other good effects

likely to result from it. On this point he gave no opinion, but asked what the relation should be, in case no such agreement as we desired should take place respecting impressments. We replied that, in such a case, it would be the desire of our government that no treaty should be concluded, but that the relations should be placed informally on the most friendly footing; adhering, in the explanations which we gave him on this head, to the ideas contained in your letter of February 3d, but without mentioning the actual receipt of such a letter. He said he was glad to find, that our government looked in all events to amicable arrangement. We told him that we had not heard from you since the treaty had arrived in America; but that full instructions would doubtless be forwarded to us, as soon after that event as possible. He then observed that, under present circumstances, he thought it would be better to let the whole business rest, as it would be impossible for either party to move in it with advantage. He promised, in case the officer above mentioned brought any thing material, to inform us of it, and to appoint a time for another interview, which however he has not since done. We enclose a copy of his note of the next day.

It is impossible for us to give you a satisfactory opinion as to the prospect of arranging this important business with the present ministry. All the facts on which such an opinion should be formed, not previously known to you, are stated above. As, however, we are not perfectly aware of the consequences of any act on our part, which might tend to lessen the obligation of this government to ratify the treaty, in case it should be ratified by the President and Senate, we have thought it best, (especially as Mr. Canning, after promising us an appointment, has shown no disposition towards another interview) to leave things in their present state until we hear from you. We flatter ourselves, that we shall soon have that satisfaction, as we see by the gazettes that Mr. Purviance must have arrived at Washington about the 12th of March. In the mean time, we have placed our affairs on a footing the most fa-

avourable for any course which our government may take, and we beg you to be assured that we shall, with the utmost zeal and promptitude, adopt that which shall be thought the most expedient. We have the honour to be, &c.

JAMES MONROE,
WILLIAM PINKNEY.

P. S. We are preparing a letter to you, explanatory of the project of a supplemental convention mentioned above, which will be forwarded in a few days. A copy of the project of the British commissioners will be enclosed. It is not our intention to proceed, even if this government should be so disposed, to do any thing conclusive upon the subjects embraced by it, until the views of the President shall be known to us relative to such of the topics as were not contemplated by the instructions originally given to the mission.

LONDON, APRIL 25, 1807.

SIR,

We had the honour to inform you, in our letter of the 22d instant, that the British commissioners having proposed to us to endeavour to adjust the terms of a supplemental convention relative to boundary, to a trade by sea between the United States and the British northern colonies; and to the subjects reserved for future explanation by the 3d article of our treaty, we had resumed our conferences with them, and had made considerable progress in digesting the plan of such a convention, when the business was interrupted by an entire change of the king's ministers. It is the purpose of this despatch concisely to explain that negotiation and its objects.

After many interviews and much discussion, the British commissioners at length presented to us the project, of which a copy is now transmitted, differing in many essential particulars from that which had been originally offered on our part.

The first article in our plan, which, like the first article in their project, defined the connecting line between the

mouth of the St. Croix, as heretofore settled by commissioners, and the bay of Fundy, was copied from the convention of Mr. King and lord Hawkesbury, and, adopting the ship channel between Deer Island and Campo Bello Island, first included and then excepted the latter. The British commissioners alleged that the article in that shape accomplished its object by an useless inconsistency; that it gave a line of property and jurisdiction beyond its own views, merely to furnish occasion for an exception of almost equal importance with the whole residue of the subject; and that the navigation of the east passage being secured to the United States by a precise provision, the whole effect of the first article of the convention of 1803 would be produced at once by running the line along the middle of the west passage. They therefore proposed an article framed on that principle, to which no objection of any weight has occurred to us. We do not perceive that in substance this article is different from the other, while it is more simple and intelligible in its plan. Even if the commencement of one of the parallel east lines, within which, by the treaty of peace, the United States are entitled to all islands within twenty leagues of any part of our shores (not within the limits of Nova Scotia) should be admitted to depend upon the channel through which our line from the St. Croix is conducted to the bay of Fundy, it would probably be indifferent to the United States whether the east or the west channel were adopted. Grand Manan seems to be considerably southward of an east line drawn even from West Quoddy Head, and we know of no other island, taking into consideration the exception in the treaty of peace, to the title of which the commencement of that line can now be important.

To the 5th article, regulating our boundary in the northwest, which has encountered much zealous opposition here, even in the form suggested by the British commissioners, from the prejudices, supposed interests, and mistaken view of many persons, an explanation of some of which will be found in an idle paper written by lord Selkirk, (of which a

copy is enclosed) we finally objected, that the division line between our respective territories in that quarter ought to be drawn from the most north-western point of the Lake of the Woods, due north or south, until it shall intersect the parallel of 49 degrees, and from the point of such intersection due west along, and with that parallel. This was agreed to by the British commissioners.

We objected also to the terms defining the extension of the west line, viz. "as far as the territories of the United States extend in that quarter." It appeared to us that by these words a great portion of the subject was in danger of being set at large; that the provision would, perhaps, do no more than establish between the parties the commencement of the line, and might of course leave it open to Great Britain to found a claim hereafter to any part of the tract of country to the westward of that commencement, upon the notions of occupancy or conquest, which you will find stated by lord Selkirk, in the paper above mentioned, or upon some future purchase from Spain, as intimated by others. We therefore proposed to omit the words in question altogether, which the concluding proviso appeared to render wholly unnecessary, even upon the ideas of the British commissioners. This was not agreed to; but it was said there would be no objection to give to this part of the description a character of reciprocity, so as to make it read "as far as their said respective territories extend in that quarter." A copy is enclosed of our plan of a fifth article, as also of the same article which the description above quoted merely made reciprocal.

It is proper to observe in this place that the project of the British commissioners contemplates, what of course had not entered into our plan, a permanent concession on our part of access through our territories in the north western quarter to the river Mississippi, for the purpose of enabling British subjects to enjoy the navigation of that river, as secured to them by the treaty of peace, and the treaty of 1794, and the like access to the rivers falling into the Mississippi from the westward. The desired

concession however amounts simply to a right of passage, and is claimed, not only as an equivalent for such a permanent adjustment of boundary as is here thought, or affected to be thought, highly advantageous to us, and injurious to Great Britain, but (as regards access to the Mississippi) upon this idea, among others, that the treaty of peace, which secures to Great Britain the free navigation of that river, appears to have looked to it, in common with the treaty of 1763, as over-reaching our northern limit, and consequently as being accessible to the British in the territory of the Hudson's bay. It is probable that this demand, so far as respects the waters falling into the Mississippi from the westward, would not be persisted in, if no other difficulty should present itself.

The 7th article of the project is wholly that of the British commissioners, and proposes to extend, as you were apprised by our letter of the 3d of January would be attempted by them for the term of the treaty, the privileges of trade and inland navigation, secured by the 3d article of the treaty of 1794, to the territories of the contracting parties to the north and south of the dividing line established by the 5th article, in other words, to Louisiana and the territories of the Hudson's bay company, with the exception only of the actual settlements of that company and their immediate neighbourhood. This, if agreed to, must undoubtedly be considered as a concession to Great Britain; although the proposed arrangement throws open to us for the first time the territories of the Hudson's bay; although they still insist that their admission into the trade of Louisiana is a necessary consequence of our acquisition of it, coupled with the third article of the treaty of 1794; and although they sometimes intimate that the independent tribes of savages who inhabit that vast region have a right to carry on within it their usual traffick with whom they please, and of course to authorize a continuance of the customary British trade to which this article relates; and, if not absolutely to authorize it, at least to give to Great Britain a claim upon the United States for a recognition of it (con-

cially in connection with the treaty of 1794) upon fair terms and equivalents. We resisted this proposal by every consideration which has been stated by you, or has occurred to ourselves. We dwelt particularly upon the high motives of duty and the urgent views of policy, connected with the public tranquillity, as suggested by recent facts, or by the state and peculiar population, as far as they were known, of the country to the westward of the Mississippi, as well as by the nature and character of the traffick itself, which were likely to influence our government against any plan, which should admit British or any other foreign traders into it. We were not able, however, to produce any disposition to dispense with this demand, and had abundant reason to apprehend that a rejection of it by the United States would be considered here as an unfriendly act without an adequate motive, and might prevent the completion of any satisfactory arrangement of the other points embraced by the proposed convention. Still, if the consideration of this subject should be resumed, we shall not fail to renew our efforts, whatever may be the prospect of success, to reconcile this government to the failure of this favourite object, unless the instructions we may receive from you should appear to point to a different course.

There is another feature in this article which it is proper to notice. It relates to a subject with which you are already familiar, the mode of calculating the *ad valorem* duties on goods imported into the United States, under the 3d article of the treaty of 1794. The calculation is understood to be made upon the value in Canada, not upon the value at the place of original exportation. This is complained of, not as a hardship merely, but as a plain infringement of the treaty. The object is not perhaps of such value as to make a perseverance in this doubtful practice desirable, and it is certain that the explanation, if made at this time (and if not made now, it will probably be pressed hereafter with increased zeal, as being demanded by good faith) will be received in this country as the effect of

a just and liberal policy towards Great Britain. The remaining provisions of the article in favour of Great Britain are of no importance, and will perhaps be best explained by the enclosed copy of an "extra official communication with regard to the Canada trade," made to us by lord Holland and lord Auckland some time ago.

The 8th article of the project relates to a trade by sea, between some port or ports of the British northern provinces and the United States, in the vessels of either party. The article is not such as we entirely approve, but connected with an act of parliament, which it was proposed to pass immediately, and of which the draft was shown to us by the British commissioners, it would perhaps go near to accomplish the object of our government. Our project contained an article upon this subject proposing an open trade in native productions, with the same system of duties as is contained in our treaty. We were told that, although well disposed towards our object, it was impossible for the government to venture at present upon a measure striking so plainly and essentially at their colonial system; that with the aid of the good understanding between the two countries, which would grow out of the adjustment of all points of difference, their plan would be found in its practical effect to be nearly, if not altogether as convenient and beneficial to us as our own; and that, by taking a form as little calculated as possible to alarm the advocates of rigorous monopoly, it was the more likely to become the successful means of introducing more enlightened opinions, and a more liberal practice into the whole colony system of this country.

The 9th article merely prescribes the duration of the commercial articles of the convention.

We ought to add that we had inserted in our project upon the subject of boundary an article relative to Grand Manan, but found it impracticable to retain it; the British commissioners had been induced to believe that Great Britain had been in possession of that island for a great number of years; and that, although this possession might not

amount to a title, it was a reasonable ground upon which to presume every thing which constituted title, so as to make it improper for them to bring it into question. We argued in vain that the title to Grand Manan must depend upon two plain questions of fact; whether, being within 20 leagues of our shores, it was included within the parallel east lines described in the treaty of peace as comprehending the islands which should belong to the United States; and whether, if that should be so, it was at the making of that treaty, or at any time before, within the limits of Nova Scotia: that it was impossible to pretend that the last of these questions could be answered in favour of Great Britain, and that there was strong reason to believe that the answer to the first would be found to be in favour of the United States: that their possession, such as it was (although its precise nature did not appear, and ought not to be taken for granted) commenced after the treaty of peace, and could neither give them a title, nor in any fair reasoning, applicable to the claims of sovereign states, justify a presumption of those facts upon which their title must rest; facts which were so easily capable of ascertainment, and which it was the immediate object of our article to ascertain in the same manner as other disputed facts relative to boundary had already been, and again were by this convention proposed to be ascertained. It was retorted that our title to Moose Island, Frederiek Island, and Dudley Island, in the bay of Passamaquoddy, was, under the treaty of peace, of a very questionable kind; and that, even if it should be admitted that their title to Grand Manan was also doubtful, it was but a fair and equitable compromise that, as we were suffered to hold, principally upon the score of possession, three islands to which Great Britain might make out a claim of considerable strength, she should on her part be suffered to retain, upon the same score of long possession, the only island, not given up to the United States, to which they seemed to think they had any shadow of pretention. We replied by denying that it

was at all doubtful that these islands belonged to the United States; but as it was evident that there was no disposition to yield upon the main point, we finally thought it most advisable to forbear to press the subject for the present, and to leave the case of Grand Manan for future adjustment, as an independent case, freed from the disadvantage of this idea of compromise.

We have only to repeat, what is stated in our last, that we do not mean in any event to act conclusively upon the project in question, until the views of the President, relative to such parts of it as were not embraced by our original instructions, shall have been communicated to us. The intimations thrown out towards the end of our despatch of the 8d of January, may, perhaps, produce such a communication. We have the honour to be, &c.

JAMES MONROE,
WILLIAM PINKNEY.

ADDITIONAL AND EXPLANATORY ARTICLES,

Signed the day of 1807, to be added to the Treaty of Amity, Commerce, and Navigation, between his Britannic Majesty and the United States of America, signed at London the 31st day of December, 1806.

WHEREAS by the second article of the treaty of amity, commerce, and navigation, concluded at London, on the 31st of December, 1806, between his majesty and the United States of America, it is agreed, that the several articles of the treaty of 1794, "which have not expired, nor as yet had their full operation and effect, shall be confirmed in their best form and in their full tenour; and that the contracting parties will also, from time to time, enter into friendly explanations on the subject of the said articles, for the purpose of removing all such doubts as may arise as have arisen, as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience," and it being the sincere desire of his majesty, and of the United

States, that certain points should be so explained as to promote mutual satisfaction and friendship, and for this purpose the respective plenipotentiaries who concluded and signed the aforesaid treaty of the 31st of December, 1806, having already exchanged their full-powers, have in virtue of the same entered into these additional and explanatory articles.

ART. I. The line herein after described shall, and is hereby declared to be the boundary between the mouth of the river St. Croix and the bay of Fundy; that is to say, a line beginning in the middle of the channel of the river St. Croix at its mouth, as the same has been ascertained by the commissioners appointed for that purpose; thence through the middle of the channel between Deer Island, Marvel Island on the east, and Moose Island, Dudley Island, and Frederick Island on the west, and round the south point of Campo Belle Island to the bay of Fundy, and the islands and waters eastward of the said boundary are hereby declared to be within the jurisdiction and part of his majesty's province of New Brunswick; and the islands and waters westward of the said boundary are declared to be within the jurisdiction and part of Massachusetts, one of the said United States; notwithstanding which, a full and entire right of navigation is reserved to the United States in the channel between Deer Island on the east and north, and Moose Island and Campo Belle Island on the west and south, and round the east point of Campo Belle Island into the bay of Fundy, the aforesaid channel frequently affording the only convenient and practicable navigation.

ART. II. And whereas it has become expedient that the north-west angle of Nova Scotia mentioned and described in the treaty of peace between his majesty and the United States, should be ascertained and determined, and that the line between the source of the river St. Croix and the said north-west angle of Nova Scotia, should be run and marked according to the provisions of the said treaty of peace; it is agreed, that for this purpose, commissioners shall be appointed in the following manner, viz. one commissioner

shall be named by his majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said two commissioners shall agree in the choice of a third, or if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be taken by lot, in the presence of the two original commissioners; and the three commissioners so appointed shall be sworn impartially to ascertain and determine the said north-west angle of Nova Scotia, pursuant to the provisions of the said treaty of peace; and likewise to cause the same boundary line between the source of the river St. Croix, as the same has been determined by the commissioners appointed for that purpose, and the north-west angle of Nova Scotia, to be run and marked according to the provisions of the treaty aforesaid; the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary. The said commissioners shall draw up a report of their proceedings, which shall describe the line aforesaid, and particularize the latitude and longitude of the place ascertained and determined as aforesaid to be the north-west angle of Nova Scotia, duplicates of which report, under the hands and seals of the said commissioners (or a majority of them) together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same in behalf of their respective governments; and the decision and proceedings of the said commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. III. It is further agreed, that the said commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they hereby are authorized, upon their oaths, impartially to ascertain and determine the north westernmost head of Connecticut river, according to the provision of the aforesaid treaty of

peace; and likewise to cause the boundary line, described in the said treaty of peace, between the north west angle of Nova Scotia and the said north westernmost head of Connecticut river, to be run and marked, pursuant to the provisions of the said treaty: the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary. The said commissioners shall draw up a report of their proceedings, which shall describe the boundary line aforesaid, and particularize the longitude and latitude of the north westernmost head of Connecticut river, duplicates of which report, under the hands and seals of the said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same, in behalf of their respective governments, and the decision and proceedings of the said commissioners, made and had as aforesaid, shall be final and conclusive.

ART. IV. It is further agreed, that the aforesaid commissioners shall respectively be paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the ratification of this convention; and all other expenses, incurred by the said commissioners, shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the said commissioners; and in case of death, sickness, or necessary absence, the place of any commissioner shall be supplied in the same manner as such commissioner was appointed, and the new commissioner shall take the same oath and do the same duties.

ART. V. It is agreed that a line drawn due west from the Lake of the Woods along the forty-ninth parallel of north latitude, shall be the line of demarcation between his majesty's territories and those of the United States to the westward of the said lake, as far as the territories of the United States extend in that quarter, and that the said

line shall, to that extent, form the southern boundary of his majesty's said territories, and the northern boundary of the said territories of the United States, provided that nothing in the present article shall be construed to extend to the north west coast of America, or to the territories belonging to, or claimed by either party, on the continent of America, to the westward of the Stony Mountains.

ART. VI. It is agreed by the United States that his majesty's subjects shall have at all times free access from his majesty's aforesaid territories by land or inland navigation, into the aforesaid territories of the United States, to the river Mississippi, with the goods and effects of his majesty's said subjects, in order to enjoy the benefit of the navigation of that river, as secured to them by the treaty of peace between his majesty and the United States, and also by the third article of the treaty of amity, commerce, and navigation of 1794. And it is further agreed that his majesty's subjects shall in like manner, and at all times, have free access to all the waters and rivers falling into the western side of the river Mississippi, and to the navigation of the said river.

ART. VII. It is agreed that the privileges of intercourse, and trade by land, or inland navigation, secured to his majesty's subjects, and to the citizens of the United States, and to the Indians dwelling on each side of the boundary line between the respective territories of the high contracting parties, on the continent of America, by the third article of the treaty of amity, commerce, and navigation between his Britannic majesty and the United States of America, signed at London the 19th of November, 1794, as well as by the explanatory article, concluded at Philadelphia, in 1796, shall extend to all the territories belonging to either of the high contracting powers on the continent of America (the actual settlements of the Hudson's bay company and the intermediate neighbourhood of those settlements always excepted) situated on either side of any part of the boundary line described in the preceding articles, so that all the rights and privileges secured to his majesty's subjects and to the citizens of the United States,

by the aforesaid article of the treaty of 1794, as well as by the explanatory article of 1796, shall be enjoyed by them in the aforesaid territories. It is farther agreed that goods or merchandise imported by land or inland navigation from the territories of the one power into those of the other, shall not be subjected to other or higher duties, when so imported, than would be payable for the same goods if imported into the said territories from Europe, or from beyond the seas; and therefore, that the value of the said goods and merchandise shall be estimated by their respective custom-house officers, in the same manner as if they were so directly imported from Europe or from beyond the seas. It is farther agreed that no duties shall be exacted from the traders of either power, for licenses to trade with the Indians for themselves, their servants, or their canoe-men, or for passes for their canoes, or for any other purpose whatever. But if such licenses are required by either power as a measure of police or internal regulation, they shall be granted by the power requiring them to the subjects or citizens of the other without any fee or gratuity, and shall not be withheld from any person demanding them for himself, his servants, or his canoe-men, except for some offence committed or impropriety of conduct on the part of the person for whom the license is demanded. It is farther agreed, that no restrictions or limitations shall be applied by either power to the trade of the subjects or citizens of the other power, with the Indians living on its own side of the boundary line, except such limitations and restrictions as a regard to its own safety may from time to time compel it to adopt, with regard to the trade of its own subjects or citizens.

ART. VIII. Whereas it is expedient that the exchange of gypsum, grindstones, and certain other articles of the produce of his majesty's colonies in North America, and of British manufactures, and British West India produce, to be exported from the said colonies in return for horses, cattle, grain, provisions, slaves, pitch, tar, turpentine, and certain other articles the produce of the United States,

shall be permitted, encouraged and regulated by sea, between the subjects of his majesty and the citizens of the United States: it is agreed that measures shall be taken as speedily as may be, for giving a legalized exchange and intercourse for the purposes aforesaid, at such port or ports as shall be fixed for the vessels of either party with such fair and equal regulations, restrictions or extensions, from time to time, as may best promote the said objects consistently with the respective and essential interests of navigation and trade.

ART. IX. Lastly. This treaty, when the same shall have been ratified by his majesty and the President of the United States, by and with the advice of their Senate, and the respective ratification mutually exchanged, shall be binding and obligatory upon his majesty and upon the said states, and shall be by them respectively executed and observed with punctuality, and the most sincere regard to good faith; and it is agreed, that the first six articles of this treaty shall be permanent, and that the seventh and eighth articles shall be limited in their duration to ten years, to be computed from the day on which the ratification of the treaty of amity, commerce and navigation, signed at London on the 31st of December last, shall have been exchanged.

In faith whereof, we the undersigned plenipotentiaries, on the part of his majesty the king of the united kingdom of Great Britain and Ireland, and the commissioners extraordinary and plenipotentiaries on the part of the United States of America, have signed this present convention, and have caused to be affixed thereto the seal of our arms.

Done at London, the day of one
thousand eight hundred and seven.

ARTICLE V.

(As proposed by the American commissioners.)

It is agreed that a line drawn due north or south (as the case may require) from the most north-western point of the Lake of the Woods, until it shall intersect the 49th

parallel of north latitude, and, from the point of such intersection due west along and with the said parallel, shall be the dividing line between his majesty's territories and those of the United States to the westward of the said lake; and that the said line, to and along and with the said parallel, shall form the southern boundary of his majesty's said territories, and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to, or claimed by, either party on the continent of America to the westward of the Stony Mountains.

ARTICLE V.

(As the British commissioners have agreed to make it.)

It is agreed that a line drawn due north or south (as the case may require) from the most north-western point of the Lake of the Woods, until it shall intersect the 49th parallel of north latitude, and from the point of such intersection due west along, and with the said parallel, shall be the dividing line between his majesty's territories and those of the United States to the westward of the said lake, *as far as their said respective territories extend in that quarter*; and that the said line shall, *to that extent*, form the southern boundary of his majesty's said territories, and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to, or claimed by either party on the continent of America, to the westward of the Stony Mountains.

[DUPLICATE.]

LONDON, MAY 7, 1807.

SIR,

WE had the honour to receive, on the 27th of last month, your letter of the 18th of March, to which the detailed explanations contained in our letter of the 22d and 25th ult. render any particular reply unnecessary.

* VOL. III. 17

We transmit enclosed a statement of the American prize causes, for hearing in the high court of appeals. That which was forwarded by Mr. Purviance was very hastily prepared by general Lyman, under a misconception of our views, and included only cases in the high court of admiralty. We have the honour to be, &c.

JAMES MONROE,
WM. PINKNEY.

JAMES MADISON, Esq. &c. &c. &c.

LONDON, OCT. 10, 1807.

SIR,

WE avail ourselves of the opportunity afforded by the return of the schooner *Revenge*, to give you a brief account of the transactions of the joint mission, from the time of Mr. Purviance's arrival in England, until the receipt of intelligence here of the late outrage in the American seas, upon the sovereignty of our country.

Your letter of the day of May, was delivered to us on the day of July, and we lost no time in obtaining an interview with Mr. Canning, on the subjects to which it relates. In the course of that interview, we entered at large into the explanations required by our instructions, and at the same time recalled to Mr. Canning's attention, the statement which we had made to him at former conferences, relative to our want of power to bind our government by a treaty which should not provide in a satisfactory manner for the subject of impressment. That we might be enabled to give to Mr. Canning a more complete view of the grounds of the President's disapprobation of the instrument signed in December last, and of the alterations in that instrument which we had to propose, we thought it advisable to suggest these alterations in the margin of a copy of it, and to prepare moreover separate clauses relative to impressments and indemnity. Of these papers copies are herewith transmitted.

We had scarcely finished our explanations when Mr. Canning intimated the propriety of putting them into the

form of a note. He expressed, however, his readiness and his wish, for the purpose of saving time, to receive immediately the papers above mentioned, which, as containing the project of such an arrangement as would be acceptable to the President, we did not hesitate to deliver to him. An official note being required by Mr. Canning, we had no choice but to consent to that course, and as you will find in the copy of the note itself a brief recapitulation of the substance of what we thought it prudent to say to him in that stage of the transaction upon the principal points embraced by it, it is unnecessary to repeat it here. It is proper, however, to observe that although nothing was said by Mr. Canning which authorized us to calculate with certainty on the ultimate success of renewed negotiation, there was nothing in his language or manner of an unfriendly character.

Our note was prepared with as much expedition as the importance and delicacy of its topics would permit; but before it was possible to send it to Mr. Canning he reminded us of it by a note of which a copy is enclosed. Our note, which we hope will meet with the President's approbation, was delivered to Mr. Canning on the next day.

We did not think it proper, for obvious reasons, either in conversation or in our note, to enter into any argument in support of the different alterations suggested by our project to the proposed treaty. This it was thought would be more regularly as well as advantageously attempted when negotiation should be resumed. It is only necessary to add, that, before Mr. Canning had replied to our note, information was received of the outrage committed by the Leopard, and that our proceedings were in consequence suspended.

We have the honour to enclose the copy of a bill delivered to us some time ago by lord Auckland, for permitting an intercourse by sea between the British North American colonies and the United States. This bill was brought into the house of commons during the last session of parliament by Mr. Rose and Mr. Eden, and has passed into a

law. You will perceive that it has in view the 8th article of the project of a convention of limits already transmitted to you. A copy is also enclosed of the communication which we have thought it our duty to make to general Armstrong and Mr. Bowdoin.

We have the honour to be, &c.

(Signed)

JAMES MONROE,
WM. PINKNEY.

JAMES MADISON, Esq.

P. S. We have the honour to acknowledge the receipt of your letters of the 17th and 30th of July. There not being time to prepare copies of the project presented Mr. C. for Dr. Bullus, it will be forwarded by another opportunity without delay.

(Signed)

WILLIAM PINKNEY.

[COPY.]

LONDON, JULY 24, 1807.

THE undersigned, ministers extraordinary and plenipotentiary of the United States of America, have the honour to inform Mr. Canning that they are instructed by the President of the United States, to propose to his majesty's government a renewal of negotiation relative to the objects of the mission of the undersigned, with a view to a more satisfactory result than is found in the instrument signed on the 31st of December last, by his majesty's plenipotentiaries and those of the United States.

The undersigned are persuaded, that his majesty's government will see in this measure an unquestionable proof of the sincere desire of the President, to place the friendly relations of the two countries beyond the reach of those misunderstandings which either the absence or the inadequacy of precise arrangements on subjects of the greatest delicacy and importance, might from time to time occasion.

It is under the influence of this solicitude that the President has charged the undersigned to express to his majesty's government, his unfeigned regret that the instrument above mentioned does not appear to him to be such as

he can approve, and at the same time to declare his entire confidence that the just and liberal sentiments which animate his majesty's government, corresponding with those which belong to the government of the United States, cannot fail to lead, without delay or difficulty, to such an issue of the negotiation which is now proposed, as shall be suited in all respects to the rights and interests of both nations, and therefore calculated to ensure a long continuance of the friendship which so happily subsists between them.

The undersigned have already had the honour to present to Mr. Canning a paper, which, taken in connection with a project on the subject of impressment, and another on the subject of certain claims to compensation by American citizens, presented by the undersigned at the same time, will be found to exhibit a complete view of the alterations which the instrument above mentioned is deemed by the President to require. They forbear to trouble Mr. Canning with a recapitulation of the details which these papers contain; but there are some explanations upon the topics of impressment and compensation, which they do not furnish, and which it is therefore incumbent upon the undersigned to avail themselves of this occasion to give.

It was one of the primary objects of the mission of the undersigned, to adjust with his majesty's government a formal and explicit arrangement, relative to a practice by British ships of war, which has excited in a very great degree the sensibility of the American people, and claimed the anxious attention of their government. The practice alluded to, is that of visiting on the main ocean, the merchant vessels of the United States, navigating under the American flag, for the purpose of subjecting their crews to a hasty and humiliating inquisition, and impressing, as British seamen, such of the mariners as, upon that inquisition, the visiting officer declares to be so. The effect of this practice is that the flag of an independent power is dishonoured, and one of the most essential rights of its sovereignty violated; that American citizens either mis-

taken for British subjects, or assumed to be such without sufficient inquiry, are forced from the quiet pursuits of a lawful commerce into the severe and dangerous service of a foreign military navy, to expose their lives in fighting against those with whom their country is at peace; and that the merchant vessels of the United States are frequently thus stripped of so large a portion of their hands, before their voyages have been performed, as to bring into the most imminent peril, and sometimes to produce the actual loss, of the vessels, their cargoes, and their remaining crews. It cannot be thought surprising that a practice like this should act with peculiar force upon the feelings of those whom it oppresses, and that the sensation should extend itself to their countrymen and their government.

The government of the United States has accordingly made this pretension the subject of frequent discussion with Great Britain; and, when an extraordinary mission to his majesty's government was last year determined on, it was one of the instructions to the undersigned, to whom the duties of that mission were confided, to make no treaty which should not provide for that object. In the first stages of the negotiation, which followed that mission, the undersigned were led to indulge a confident expectation that such a provision would be obtained. At length however, the rejection by his majesty's government of a project of an article on this point, which, without touching the question of right, offered, on the part of the United States, an effectual equivalent for the mere forbearance of the practice, having extinguished all hope of an immediate adjustment of this subject by treaty, the undersigned felt that they were called upon by candour, as well as by their duty to their government, to inform the British commissioners, that, the project relative to impressment having failed, they had no power to conclude a treaty upon the other points which had been discussed between them, so as to bind the government of the United States. The undersigned did accordingly give them this information, in the most explicit terms, and the negotiation was in conse-

quence, for a short time, suspended. It was soon afterwards, however, suggested by his majesty's commissioners, that if this topic should be expressly reserved for future conventional arrangement, and a pledge given to the United States for resuming the consideration of it at a convenient season with that view, and if in the mean time such an informal understanding should be substituted, as in its practical effect would remove the vexation complained of, it might perhaps be yet possible to conduct the negotiation to a result which would not be unacceptable to the respective governments : and in pursuance of this suggestion, the British commissioners presented to the undersigned, on the 8th day of November last, the official note, of which a copy is herewith enclosed. The undersigned transmitted to their government, for its consideration, a copy of this note, together with a statement of the circumstances connected with it, and, without giving it their sanction, agreed in the meantime to concur with the British commissioners, as they were invited to do, in an effort to adjust the stipulations of a treaty, upon the remaining objects of their mission, and leave the effect of what should be so adjusted to their government.

It appears that the President of the United States considers this collateral proceeding upon a concern of such paramount importance as unsuitable to the nature of it, as well in the mode as in its terms. In this opinion, the President does but continue to respect the considerations which heretofore induced him to believe that an arrangement upon this point ought to stipulate with precision against the practice in question, and that the manner of it would properly be that which should be chosen for the arrangement of the other points of discussion, and in the instructions which, in conformity with that opinion, he has now given to the undersigned, he does but manifest his reliance upon the spirit of justice and amity, which he is assured his majesty's government will bring to the renewed consideration of a subject so interesting to the rights and feeling of a friendly nation, for such an ad-

adjustment of this, as well as of every other question belonging to the relations of the two countries, as shall confirm their dispositions to mutual kindness, and promote the happiness and prosperity of both.

The subject of compensation will perhaps be sufficiently explained by the enclosed copies of two notes from the undersigned to lord Holland and lord Auckland, and to lord Howick.

It will appear from the last of these notes that this subject, for which the projected treaty did not provide, was not to be affected by it; but on the contrary, that the rights of the United States and the claims of their citizens were understood to be reserved for future adjustment, as completely as if no treaty had been made: and it will occur to Mr. Canning that the project of an article on this point, which they had the honour to leave with him at their last interview, is in the spirit of that understanding, and is besides so entirely free from objection, that no motive is likely to exist against the adoption of it.

There is another object to which the undersigned have the orders of the President to invite the attention of his majesty's government, as affecting materially, and giving a new and unexpected character to the proposed treaty. They allude to the written declaration, relative to the French decree of the 21st of November last, by which his majesty's plenipotentiaries accompanied their signature of the treaty; a declaration which in its actual form creates unnecessary embarrassments in the way of an acceptance of the treaty by the United States. The undersigned persuade themselves that as this proceeding, to which no sanction was given on their part, imposed on the United States no new obligation, could only be intended to declare that in signing or ratifying the treaty it was understood by Great Britain that nothing contained in it would be a bar to any measure, which if no such treaty had been signed, would be lawful as a measure of retaliation against her enemy, and as the occasion which produced it does not now appear to exist as then supposed, it will not be thought

that any thing is manifested by withdrawing it as unnecessary.

The undersigned request Mr. Canning to accept the assurances of their distinguished consideration.

(Signed)

JAMES MONROE,

WILLIAM PINKNEY.

The Rt. Hon. GEORGE CANNING, &c. &c. &c.

Copy of proposed alterations.

ARTICLE III.

OMIT the words "and sailing direct from the ports of the said states."

Omit the words "between the said territories and the United States," and substitute "with the said territories."

After the words near the end of the first paragraph, "where the same shall be unladen," insert "or to some port or place, or ports or places, in China, on the Indian or other seas beyond the Cape of Good Hope, from whence the said vessels shall proceed as aforesaid to some port or place in America, and there unlade their cargoes."

After the words "British territories," near the beginning of the second paragraph, insert "without the special permission of the British government there."

After the words "St. Helena," near the end of the article, insert "or at such other places as may be in the possession of Great Britain in the African or Indian seas."

At the end of the article add, "and it is further agreed, that if any other trade in and with the said British territories in the East Indies, than is hereby authorized, or any other, or greater rights, or advantages in respect thereof, shall be granted or permitted to the citizens or subjects of any European nation, the same shall be common to the citizens of the United States."

ARTICLE V.

At the end of the first paragraph insert, "nor shall any higher duties or charges be imposed in one country, on the exportation of any articles to the ports of the other, than

such as are payable on the exportation of the like articles to every other foreign country."

ARTICLE VII.

Propose to strike out the last paragraph.

ARTICLE VIII.

Omit the words "on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war."

Omit the word "other," immediately following these words, and substitute "any."

Omit the words "if any property of an enemy should be found on board of such vessel."

Omit the words, "belonging to an enemy."

Omit the word "otherwise."

ARTICLE IX.

After "tar and pitch," add "turpentine and rosin."

ARTICLE X.

At the end of the first paragraph, introduce a definition of the blockade, "in order to determine what characterizes a blockade, that that denomination is given only to a port where there is, by the disposition of the power which blockades it with ships stationary, an evident danger in entering."

ARTICLE XI.

Omit "during the present hostilities."

After the word "Europe," which immediately follows the above words, insert "or elsewhere."

Insert the same words after the word "Europe," in the second branch of the provision.

After the word "paid," insert "or secured to be paid."

After the words "and shall," in the proviso about duties, insert "except only mahogany and fustiek."

At the end of the paragraph which precedes the last proviso, introduce the following: "It is understood that no inference is to be drawn from this article to affect any question now, or hereafter to be judicially depending, touching the legality or illegality of a direct trade from

Europe or elsewhere, by citizens of the United States, with enemies' colonies beyond the Cape of Good Hope."

ARTICLE XII.

Omit the last paragraph.

And the following words in the first paragraph, "except for the purpose hereafter mentioned."

ARTICLE XIII.

In the first paragraph of the article, omit the words "as favourably as the course of the war then existing may possibly permit towards the most friendly power that may remain neuter," &c. and the words "as possible," so as to make it read thus, "according to the acknowledged principles and rules of the law of nations, and as favourably, moreover, as the course of the war then existing may possibly permit towards the most friendly power that may remain neuter."

ARTICLE XVII.

To be struck out, and the following inserted :

The ships of war and privateers of the two nations, as well as their prizes, shall be treated in their respective ports as those of the nation most favoured.

ARTICLE XIX.

The two last paragraphs to be struck out.

ARTICLE XXIII.

To stand thus : "It is agreed that in case either party shall hereafter grant any additional advantage in navigation or trade to any other nation, the subjects or citizens of the other party shall fully participate therein freely, where it is freely granted to such other nation, or yielding the same compensation where the grant is conditional."

ARTICLE XXVI.

Period to be five years.

INDEMNITY ARTICLE.

Complaints having been made by divers merchants and others, citizens of the United States, that during the war

in which his majesty is engaged, they have sustained loss and damage by reason of the irregular or illegal captures or condemnations of their vessels and other property, under colour of authority, or commissions from his majesty, contrary to the tenour of a communication from lord Hawkesbury to Mr. King, of the 11th April, 1801, of which a copy is annexed to this treaty, or contrary to the tenour of a letter from Mr. Merry to Mr. Madison, of the 12th April, 1801, of which also a copy is hereto annexed, or otherwise contrary to the known and established rules of the law of nations; and the said merchants and others having further complained that full and complete redress for the said losses and damages has not been, and cannot be, for various causes, had and obtained, in the ordinary course of judicial proceedings; his majesty agrees that he will, without delay, cause the most effectual measures to be taken in concert with the United States, for an impartial examination of the said complaints; and that he will cause full and complete reparation to be made thereupon to the parties entitled, as justice and equity, and the nature of the respective cases shall appear to require.

LONDON, OCT. 22, 1807.

SIR,

WE have the honour to transmit enclosed a duplicate of our joint letter to you by docter Bullus, together with a copy of the project of alterations to which it refers, and which could not be prepared in time to be sent with the original. We also enclose a printed copy of the act of parliament, relative to an intercourse by sea between the United States and the British North American colonies, of which a manuscript copy has already been transmitted.

Since the departure of docter Bullus, communications have taken place between Mr. Canning and ourselves, with which it is proper that you should be made acquainted.

On the 15th instant we received from Mr. Canning a note requesting a conference on the following Saturday, (the

17th,) accompanied by a note, of which a copy is enclosed, explanatory of the purpose for which the conference was desired. Our reply was merely that we should wait on him at the time proposed. Mr. Canning opened this conference by observing that, before he stated the view which his government had taken of the subject to which his note alluded, he had to request, if we saw no objection to it, an explanation of that part of our official note of the 24th of July, which, speaking of the written declaration of the British commissioners of the 31st of December last, suggests an opinion that the occasion which produced it "does not now appear to exist as then supposed." He then read the concluding paragraphs of the declaration, and observed that it was with a view to the reservation contained in them, that his inquiry, which we might be assured had the most friendly motive, was made. We replied by stating with exactness the real foundation of the opinion in question, which, as he seemed to wish it, we promised to repeat in a note to be sent to him without delay. A copy of the note afterwards delivered to him in pursuance of this engagement, being among the enclosures, we beg leave to refer to it for the substance of what was stated by us upon this point in conversation.

Mr. Canning closed this interview by saying, that he feared it would be necessary to postpone what he had farther to communicate, until another opportunity, and requested us to meet him again on Monday the 19th. Supposing that he was not in town on Sunday, and that nothing would be gained by sending in our promised note, before the time appointed for our adjourned conference, we took the note with us, and delivered it ourselves on Monday. Mr. Canning appeared to be satisfied with the explanation, to which we thought it our duty strictly to confine ourselves; but he did not seem to be prepared to proceed with the conference, and intimated that he would be glad to meet us again for that purpose, on the Thursday or Friday following, and would give us notice which of these days would be most convenient.

A proclamation, relative to the searching of the national and merchant vessels of neutral powers for British seamen, having appeared in the London gazette, on the 17th, with which the newspapers already forwarded and now sent will make you acquainted, we thought this a suitable occasion, of which it was incumbent on us to take advantage, for leading to an explanation of that proceeding. We began by expressing a hope that this paper was not intended to shut the door against negotiation and concession, on the subject of impressment, on board the merchant vessels of the United States, upon which Mr. Canning already knew the opinion and feeling of our government. Mr. Canning replied, that the proclamation was not intended to have that effect, that it was simply a statement of the principles and practice, upon the points to which it relates, which the British government understood to be warranted by public law, and long established usage; that such a statement did not exclude the idea of amicable discussion and adjustment with a power which favoured a different doctrine, and sought for the introduction of a different practice; that as it did no more than declare with truth and precision the past and actual state of their rules upon these interesting points, no more was done by it to shut the door against negotiation and arrangement with the United States, than would have been done without it by the mere operation of the rules themselves, of which it was declaratory; that while in this view it could have no inconvenient effect, it was manifestly useful, and imperiously required in another; that it was indispensably necessary for the information of their naval commanders, especially upon distant stations, who, after what had lately happened, would, without some such guide, be at a loss to know how to regulate their conduct, and would thus be exposed to the perpetual hazard either of falling short of their duty or of exceeding it, in matters of the highest moment; that it was so far from being meant to wear an unfriendly appearance, or to increase the difficulties in the way of a good

understanding with our country, that it was believed by his majesty's government to exhibit their disposition to conciliation in a way not to be mistaken, and to facilitate the establishment of such an understanding; that the proclamation had been prepared nearly three months ago, but had not been published until it was ascertained that the subject of it could not be affected by any negotiation of which the result could soon be known; that the effect of Mr. Rose's mission, whatever might be hoped, could not appear for some months, and that in the mean time it seemed to be proper, that without changing the state of things to the prejudice of either party, their navy should not be left to conjecture their duty on subjects of such delicacy and importance, upon which so much had occurred to produce misconception and irritation; that it was impossible to consider in connection his (Mr. Canning's) first note to Mr. Monroe, upon the receipt of intelligence of the affair of the *Leopard* and *Chesapeake*, the promptitude with which the king's government had disavowed an intention of asserting a claim to search national ships for deserters, the explicit prohibition of such a practice in the proclamation, at a time when it was very generally maintained by the press, and notoriously countenanced by public opinion, as lawful, expedient and essential, and the mission which was about to proceed to the United States, without being persuaded that, in the transaction in question, the views of government were of the most friendly character.

These explanations were followed by others of a less satisfactory description. He said in the progress of the conversation, that he ought not to leave us under the impression, that there was any prospect that the government of Great Britain could recede from its declared pretensions relative to searching on the high seas the merchant ships of neutral nations for British seamen; that the present state of the world, and the nature and mode of that hostility which France was now waging against this country, of which the great instrument was avowed to be the systematic exclusion of the trade, productions, and manu-

factures of Great Britain and her colonies, from their usual market, rendered it to the last degree hazardous, if not absolutely impracticable, to stipulate for the abandonment of a practice to which the navy and the people of England attached so much importance, even although the government should itself be persuaded that it might be done with safety.

We endeavoured to impress upon Mr. Canning, the unfortunate influence which such views and sentiments could not fail to have upon any negotiation which might be attempted, in whatever form, between the two countries; but although his manner was as conciliatory as it could be, he did not allow us to believe, that these sentiments would be relinquished, or consequently that Mr. Rose would have powers upon the general topic of impressment.

We have not since heard from Mr. Canning, but we are every moment in expectation of an appointment for another interview.

We deem it to be so important that you should be in possession of the foregoing details, before the government of the United States takes its course relative to Mr. Rose's mission, that we have determined to send this despatch by Mr. Rose himself, who is so good as to offer to take charge of our letters. As he sails immediately in a frigate now at Portsmouth, the presumption is, that he will arrive before Mr. Monroe, who will sail in a few days in the *Augustus* for Norfolk.

We shall add in a postscript any thing that shall occur before Mr. Rose leaves town.

We have the honour to be, &c.

(Signed)

JAMES MONROE,
WM. PINKNEY.

P. S. Mr. Canning's note (erroneously dated on the 17th, instead of the 15th instant,) of which a copy is enclosed, states the existence of a mutual understanding between him and us, "by which, on the receipt of the first accounts of the unfortunate encounter between the *Leopard* and the *Chesapeake*, we agreed to confine our official dis-

cessant to that single subject, until it should be finally adjusted." It may not be improper to mention, although the fact is of no real importance, that this statement is inaccurate. Upon the receipt of intelligence, that the proposed treaty of December last was not likely to be accepted by our government, there was an understanding (as heretofore explained to you) that it might be necessary to suspend our proceedings, until the arrival of more precise information upon that point, and perhaps until the arrival of our instructions. Mr. Canning confounds that epoch with the more recent one to which he alludes. His conduct, in forbearing to press our negotiation after the affair of the Chesapeake was known, was undoubtedly such as we approved and desired, but it did not arise out of any agreement with us.

P. S. October 24, we received yesterday evening a note from Mr. Canning, dated the 22d, transmitting the answer of this government to our note of the 24th July. Copies of these are enclosed.

(Signed)

JAMES MONROE,
WM. PINKNEY.

Mr. Canning to Messrs. Monroe and Pinkney.

FOREIGN OFFICE, OCT. 17, 1807.

GENTLEMEN,

THE mutual understanding, by which, on the receipt of the first accounts of the unfortunate encounter between the Leopard and the Chesapeake, we agreed to confine our official discussions to that single subject, until it should be finally adjusted, has alone prevented me from returning long ago an official answer to your note of the 24th of July.

The nature of Mr. Monroe's instructions has unfortunately precluded that settlement which his majesty's government so anxiously desired, of the question respecting the Chesapeake by negotiation between that gentleman and myself. But that question being now put into a train of separate adjustment, by the appointment of a minister on the part of his majesty to proceed to America for that

special purpose, and the return of Mr. Monroe to America making it necessary that you should be apprized of the sentiments of his majesty's government, as to the state in which the treaty signed by you and his majesty's commissioners, on the 31st of December last, is left by the refusal of the President of the United States to ratify that instrument, I have to request a conference with you for that purpose, previous to Mr. Monroe's departure.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

Messrs. Monroe and Pinkney to Mr. Canning.

LONDON, OCT. 18, 1807.

AIR,

IN our interview of yesterday you requested that we would explain the ground of the opinion which is expressed in our letter to you of July 24, that the occasion which induced the British commissioners to present to us the note of the 31st of December preceding, had ceased to exist. We hasten to comply with that request, as we shall do to give an explanation of any other passage in that letter which you may desire. We were of opinion, at the time when the British commissioners presented to us that paper, that the decree of the government of France, to which it related, ought not to be considered applicable to the United States, because such a construction was plainly repugnant to the treaty subsisting between the United States and France, and likewise because the decree might be understood to relate only to France, and the dominions subject to her arms. We alluded, however, in our letter of July 24, to circumstances which had occurred since the date of the decree, as fixing unequivocally an interpretation of it which we at first supposed to be reasonable.

Great anxiety having been excited by a different construction, which many believed the decree to be susceptible of, the minister of the United States at Paris requested of the minister of marine, who was charged with its execution, an explanation of the sense in which it was under-

stood by his government, who assured him that it was not intended that it should in any degree interfere with the provisions of the treaty of 1800, between the United States and France.

We relied also upon the fact, not only that no countenance had been given by any practice or judicial decision in France to a different construction, but that the practice was in precise conformity with the view above suggested; and that in a cause, in which the question had been formally brought into discussion, the court had sanctioned the conclusion, that the treaty between the two nations was to be exactly fulfilled, and that the decree was to be so construed as not to infringe it.

We think it proper to confine ourselves to the explanation which you have desired of the passage alluded to in our former letter, and not to enter in this communication, in any other respect, on the subject of the paper with which it is connected. We have the honour to be, &c.

(Signed)

JAMES MONROE,
WILLIAM PINKNEY.

Mr. Canning to Messrs. Monroe and Pinkney.

FOREIGN OFFICE, OCT. 22, 1807.

GENTLEMEN,

THE considerations which have hitherto suspended our communication on the subject of the treaty returned from America, having ceased by the termination of the discussion between Mr. Monroe and myself, respecting the encounter between the Leopard and the Chesapeake, I have now the honour to transmit to you the answer which I have been commanded by his majesty to return to your note of the 24th of July. I have the honour to be, &c.

(Signed)

GEORGE CANNING.

Messrs. MONROE and PINKNEY, &c. &c. &c.

THE undersigned, his majesty's principal secretary of state for foreign affairs, in returning an answer to the official note, with which Messrs. Monroe and Pinkney have

accompanied their communication of the copy of the treaty, which has been sent back unratified from America, is commanded, in the first place, to inform the American commissioners, that his majesty cannot profess himself to be satisfied that the American government has taken any such effectual steps with respect to the decree of France, by which the whole of his majesty's dominions are declared in a state of blockade, as to do away the ground of that reservation which was contained in the note delivered by his majesty's commissioners at the time of the signature of the treaty; but that, reserving to himself the right of taking, in consequence of that decree, and of the omission of any effectual interposition on the part of neutral nations to obtain its revocation, such measures of retaliation as his majesty might judge expedient, it was nevertheless the desire and determination of his majesty, if the treaty had been sanctioned by the ratification of the President of the United States, to have ratified it on his majesty's part, and to have given the fullest extent to all its stipulations.

Some of the considerations upon which the refusal of the President of the United States to ratify the treaty is founded, are such as can be matter of discussion only between the American government and its commissioners: since it is not for his majesty to inquire whether, in the conduct of this negotiation, the commissioners of the United States have failed to conform themselves, in any respect, to the instructions of their government.

In order to determine the course which his majesty has to pursue in the present stage of the transaction, it is sufficient that the treaty was considered by those who signed it as a complete and perfect instrument. No engagements were entered into on the part of his majesty as connected with the treaty, except such as appear upon the face of it. Whatever encouragement may have been given by his majesty's commissioners to the hope expressed by the commissioners of the United States, that discussions might thereafter be entertained with respect to the impressment of British seamen from merchant vessels, must be under-

stood to have had in view the renewal of such discussions, not as forming any part of the treaty then signed, (as the American commissioners appear to have been instructed to assume) but separately, and at some subsequent period more favourable to their successful termination.

But the alterations proposed by the President of the United States in the body of the treaty, thus formally concluded, appear to require more particular observation.

The undersigned is commanded distinctly to protest against a practice, altogether unusual in the political transactions of states, by which the American government assumes to itself the privilege of revising and altering agreements concluded and signed on its behalf by its agents duly authorized for that purpose, of retaining so much of these agreements as may be favourable to its own views, and of rejecting such stipulations, or such parts of stipulations, as are conceived to be not sufficiently beneficial to America.

If the American government has a right to exercise such a revision, an equal right cannot be denied to others; and it is obvious, that the adoption of such a practice by both parties to a treaty would tend to render negotiation indefinite, and settlement hopeless, or rather, to supersede altogether the practice of negotiation through authorized commissioners, and to make every article of a compact, between state and state, the subject of repeated reference, and of endless discussion. The alteration of particular articles in a treaty, after the whole has been carefully adjusted and arranged, must necessarily open the whole to renewed deliberation. The demands of one party are not to be considered as absolute, nor the concessions of the other as unconditional.

What may have been given on the one hand in consideration of advantage to be derived, in return, from accompanying stipulations, might have been refused, if those stipulations had been less favourable, and must necessarily be withdrawn, if they are changed.

It cannot be admitted that any government should hold

those with whom it treats to all that has been granted by them in its favour, relaxing at the same time, on its part, the reciprocal conditions for which its own faith has been engaged, or that, after having obtained by negotiation a knowledge of the utmost extent of concession to which the other contracting party is prepared to consent in the conclusion of a treaty, it should require yet farther concession, without equivalent, as the price of its ratification.

The undersigned is, therefore, commanded to apprise the American commissioners, that, although his majesty will be at all times ready to listen to any suggestions for arranging, in an amicable and advantageous manner, the respective interests of the two countries, the proposal of the President of the United States for proceeding to negotiate anew, upon the basis of a treaty already solemnly concluded and signed, is a proposal wholly inadmissible. And his majesty has, therefore, no option, under the present circumstances of this transaction, but to acquiesce in the refusal of the President of the United States to ratify the treaty signed on the 31st of December, 1806.

The undersigned requests Messrs. Monroe and Pinkney to accept the assurances of his high consideration.

(Signed)

GEORGE CANNING.

*Letter from Mr. Monroe to the Secretary of State,
dated Richmond, Feb. 28, 1808.*

SIR,

It appears by your letter of May 20th, 1807, which was forwarded by Mr. Purviance to Mr. Pinkney and myself, at London, and received on the 16th July, that you had construed several articles of the treaty, which we had signed with the British commissioners, on the 31st of December, 1806, in a different sense from that in which they were conceived by us. As the course we were instructed to pursue, by your letter of February 3d, with regard to that treaty, which was confirmed in that of May 20th, was in no degree dependent on our construction of any of its articles, or on the political considerations which induced us to sign it, we deemed it unnecessary to enter into any

explanation in reply, either of our construction of its articles, or of the political considerations alluded to. We thought it more consistent with our duty to look solely to the object of our instructions, and to exert our utmost efforts to accomplish it; and we acted in conformity to that sentiment. The result of these efforts was made known by the documents which I had the honour to present to you, when I was lately at Washington, being copies of a joint despatch, which Mr. Pinkney and I had forwarded by Mr. Ross. We had flattered ourselves, that it might have been practicable to obtain the amendments of the treaty which the President desired, as the state of affairs in Europe had become more favourable to such a result; but in that we were disappointed. We found no difficulty in accomplishing the other object, of setting it aside, as we were instructed to do, in case the proposed amendments were not acceded to.

At this time there is no objection to such an explanation, that I am aware of, and there are many reasons why it should be given. You will be sensible that, so far as an unfavourable estimate is entertained of that transaction, it must, in the degree, tend to injure those who gave it the sanction of their names; and you will be equally sensible that, if the United States are in any degree interested in it, at this time, it must consist in its being viewed in a just, rather than an unfavourable light. In retiring from the station which I have lately held, this is the last act of publick and private duty, which I have to perform in relation to it. It is to me, in many views, a painful duty, but still it is one which it is highly incumbent on me to execute.

It is far from being my desire to compromit Mr. Pinkney, in this letter, in the slightest circumstance. In the management of the business which was entrusted to us jointly, we acted with the greatest harmony, and exerted our best efforts to accomplish the object of our instructions. I am not aware that, in speaking of any part of the treaty, I shall give it a construction in which he would not concur;

but that presumption is founded altogether on what took place between us in the course of the negotiation. To this communication he is not a party, nor indeed does he know that such a one will be made. In every view, therefore, it is improper, and would be unjust, that he should be considered as having any concern in it.

The impressment of seamen from our merchant vessels is a topic which claims a primary attention, from the order which it holds in your letter, but more especially from some important considerations that are connected with it. The idea entertained by the publick is, that the rights of the United States were abandoned by the American commissioners in the late negotiation, and that their seamen were left by tacit acquiescence, if not by formal renunciation, to depend, for their safety, on the mercy of the British cruisers. I have, on the contrary, always believed, and still do believe, that the ground on which that interest was placed by the paper of the British commissioners of November 8, 1806, and the explanations which accompanied it, was both honourable and advantageous to the United States; that it contained a concession in their favour, on the part of Great Britain, on the great principle in contestation, never before made by a formal and obligatory act of the government, which was highly favourable to their interest; and that it also imposed on her the obligation to conform her practice under it, till a more complete arrangement should be concluded, to the just claims of the United States. To place this transaction in its true light, and to do justice to the conduct of the American commissioners, it will be necessary to enter at some length into the subject.

The British paper states that the king was not prepared to disclaim or derogate from a right on which the security of the British navy might essentially depend, especially in a conjuncture when he was engaged in wars which enforced the necessity of the most vigilant attention to the preservation and supply of his naval force; that he had directed his commissioners to give to the commissioners of the

United States the most positive assurances that instructions had been given, and should be repeated and enforced, to observe the greatest caution in the impressing of British seamen, to preserve the citizens of the United States from molestation or injury, and that immediate and prompt redress should be afforded on any representation of injury sustained by them. It then proposes to postpone the article relative to impressment on account of the difficulties which were experienced in arranging any article on that subject, and to proceed to conclude a treaty on the other points that were embraced by the negotiation. As a motive to such postponement, and the condition of it, it assures us that the British commissioners were instructed still to entertain the discussion of any plan which could be devised to secure the interests of both states without injury to the rights of either.

By this paper it is evident that the rights of the United States were expressly to be reserved, and not abandoned, as has been most erroneously supposed; that the negotiation on the subject of impressment was to be postponed for a limited time, and for a special object only, and to be revived as soon as that object was accomplished; and, in the interim, that the practice of impressment was to correspond essentially with the views and interests of the United States. It is, indeed, evident, from a correct view of the contents of that paper, that Great Britain refused to *disclaim* or *derogate* only from what she called her right, as it also is, that as her refusal was made applicable to a crisis of extraordinary peril, it authorized the reasonable expectation, if not the just claim, that even in that the accommodation desired would be hereafter yielded.

In our letter to you of November 11, which accompanied the paper under consideration, and in that of January 8, which was forwarded with the treaty, these sentiments were fully confirmed. In that of November 11, we communicated one important fact, which left no doubt of the sense in which it was intended by the British commissioners, that that paper should be construed by us. In calling

your attention to the passage which treats of impressment, in reference to the practice which should be observed in future, we remarked that the terms "high seas" were not mentioned in it, and added that we knew that the omission had been intentional. It was impossible that those terms could have been omitted intentionally *with our knowledge*, for any purpose other than to admit a construction that it was intended that impressments should be confined to the land. I do not mean to imply that it was understood between the British commissioners and us, that Great Britain should abandon the practice of impressment on the high seas altogether. I mean, however, distinctly to state that it was understood that the practice heretofore pursued by her should be abandoned, and that no impressment should be made on the high seas under the obligation of that paper, except in cases of an extraordinary nature, to which no general prohibition against it could be construed fairly to extend. The cases to which I allude were described in our letter of November 11. They suppose, a British ship of war and a merchant vessel of the United States, lying in the Tagus or some other port, the desertion of some of the sailors from the ship of war to the merchant vessel, and the sailing of the latter with such deserters on board, they being British subjects. It was admitted that no general prohibition against impressment could be construed to sanction such cases of injustice and fraud; and to such cases it was understood that the practice should in future be confined.

It is a just claim on our part, that the explanations which were given of that paper by the British commissioners when they presented it to us, and afterwards while the negotiation was depending, which we communicated to you in due order of time, should be taken into view, in a fair estimate of our conduct in that transaction. As the arrangement which they proposed, was of an informal nature resting on an understanding between the parties in a certain degree confidential, it could not otherwise than happen that such explanations would be given us in the

course of the business, of the views of their government in regard to it. And if an arrangement by informal understanding is admissible in any case between nations, it was our duty to receive those explanations, to give them the weight to which they were justly entitled, and to communicate them to you, with our impression of the extent of the obligation, which they imposed. It is in that mode only that what is called an informal understanding between nations can be entered into. It presumes a want of precision in the written documents connected with it, which is supplied by mutual explanations and confidence. Reduce the transaction to form and it becomes a treaty. That an informal understanding was an admissible mode of arranging this interest with Great Britain is made sufficiently evident by your letter of February 3d, 1807, in reply to ours of November 11, of the preceding year.

Without relying, however, on the explanations that were given by the British commissioners of the import of that paper, or of the course which their government intended to pursue under it, it is fair to remark on the paper itself; that as by it the rights of the parties were reserved, and the negotiation might be continued on this particular topic, after a treaty should be formed on the others, Great Britain was bound not to trespass on those rights while that negotiation was depending; and in case she did trespass on them, in any the slightest degree, the U. States would be justified in breaking off the negotiation, and appealing to force in vindication of their rights. The mere circumstance of entertaining an amicable negotiation by one party for the adjustment of a controversy, where no right had been acknowledged in it by the other, gives to the latter a just claim to such a forbearance on the part of the former. But the entertainment of a negotiation for the express purpose of securing interests sanctioned by acknowledged rights, makes such claim irresistible. We were, therefore, decidedly of opinion, that the paper of the British commissioners placed the interest of impression on ground which it was both safe and honourable for

the United States to admit: that in short it gave their government the command of the subject for every necessary and useful purpose. Attached to the treaty it was the basis or condition, on which the treaty rested. Strong in its character in their favour on the great question of right, and admitting a favourable construction on others, it placed them on more elevated ground in those respects than they had held before; and by keeping the negotiation open to obtain a more complete adjustment, the administration was armed with the most effectual means of securing it. By this arrangement the government possessed a power to coerce without being compelled to assume the character belonging to coercion, and it was able to give effect to that power without violating the relations of amity between the countries. The right to break off the negotiation and appeal to force, could never be lost sight of in any discussion on the subject; while there was no obligation to make that appeal till necessity compelled it. If Great Britain conformed her practice to the rule prescribed by the paper of November 8, and the explanations which accompanied it, our government might rest on that ground with advantage; but if she departed from that rule, and a favourable opportunity offered for the accomplishment of a more complete and satisfactory arrangement, by a decisive effort, it would be at liberty to seize such opportunity for the advantage of the country.

These considerations, founded on a view of the proposed arrangement itself, furnished strong inducement to us to proceed to the other objects of the negotiation. There were other considerations of a different character, which recommended it with still greater force. Had we refused to proceed in the negotiation, what was the alternative which such a refusal presented to our view? The negotiation would have been at an end, after having failed in all its objects; for if this interest was not arranged, none others could be. The attitude which the governments held towards each other, was in a certain degree hostile. Injuries had been inflicted by one party, and resentment shown

by the other, the latter having taken a step in the case of the non-importation law, which was intended to vindicate the publick rights and honour by being made the means of obtaining a redress of those injuries. The measure was intended for the ministry of Mr. Pitt, from which the injuries were received; but by the removal of that ministry, and the delay which took place in the passage of the law, it came into operation against the ministry of Mr. Fox and Lord Grenville, who would not have rendered these injuries, and against whom of course such a weapon would not have been raised. Notwithstanding the existence of that law, and the attitude which still remained between the governments, it was impossible to appeal to it as a strong motive of action with the new ministry. Such an appeal was sure to produce more harm than good. It would have lost us all claim on the generous feelings and liberal policy which the new ministry was believed to indulge and disposed to adopt towards the United States. The negotiation, therefore, with the new ministry, was conducted by policy, as well as by inclination, on friendly and conciliatory principles. Should it fail, however, in its object, and be broken off, the relation between the parties would change in an instant. From that moment the new ministry would stand on the ground of the old one, and the nation be united in all its political parties against us. The attitude would become in fact, what the exterior announced it to be, hostile, and it was difficult to perceive how it could be changed, and peace be preserved, with honour to the United States. They could not recede from the ground which they had taken, or accept, by compulsion, terms which they had rejected in an amiable negotiation. War, therefore seemed to be the inevitable consequence of such a state of things, and I was far from considering it an alternative which ought to be preferred to the arrangement which was offered to us. When I took into view the prosperous and happy condition of the United States, compared with that of other nations; that, as a neutral power, they were almost the exclusive carriers of the productions

of the whole world; and that in commerce they flourished beyond example, notwithstanding the losses which they occasionally suffered, I was strong in the opinion that those blessings ought not to be hazarded in such a question. Many other considerations tended to confirm me in that sentiment. I knew that the United States were not prepared for war; that their coast was unfortified, and their cities in a great measure defenceless; that their militia, in many of the States, was neither armed nor trained; and that their whole revenue was derived from commerce. I could not presume that there was just cause to doubt which of the alternatives ought to be preferred. Had it, however, been practicable to terminate the negotiation, without such an adjustment as that proposed, and without taking any decisive measure in consequence of its failure, what was to become of the non-importation law? If suffered to remain in force, it was sure to produce war. Great Britain, it was known, would enter into no arrangement, by treaty, which did not provide for its repeal; and there was little reason to presume, after the rupture of the negotiation, by which the relation between the parties would be less friendly, that she would become more accommodating. It was, on the contrary, fairly to be concluded, that if any arrangement whatever should be practicable, it would be a less advantageous one than that which we had sanctioned. Some disposition of it was therefore indispensably necessary, in any course which might be taken. These considerations had much weight in deciding that which was pursued, and I frankly own, that a sincere desire to afford to the administration an honourable opportunity for its repeal, since, under existing circumstances, it did not seem probable that it could be longer useful, and might be injurious, was a strong motive with me to incur the responsibility which I took on myself in that transaction. To the arrangement proposed we gave our sanction. We undertook to submit it to the consideration of our government, taking care to inform the British commissioners that we had no power to conclude a treaty that would be obligatory

on the United States, which did not arrange in a satisfactory manner the interest of impressment. We agreed also to proceed in a discussion of the other objects of the negotiation, and eventually concluded a treaty; it being understood, from what we had frequently stated, that if our government should disapprove the arrangement relative to impressment, the whole would fall with it. Thus the United States enjoyed the advantage of being at liberty to accept or reject the arrangement, while on the British government it was binding. With one party it was a project, with the other a treaty. There was in truth nothing unreasonable in this circumstance, as the British commissioners acted in presence of the cabinet, consulted and took its instruction on every point, while our distance from our government rendered such a recurrence to it impossible. This advantage, however, proceeded from the nature of the transaction: it was not the effect of finesse on our part. We advanced in the negotiation, and concluded a treaty in a firm belief, that although it fell short of what we had expected to obtain, it was, nevertheless, in the then state of affairs, such a one as the United States might adopt with credit and advantage. I have no doubt that the British commissioners entertained still greater confidence in such a result. The circumstance of our finally agreeing to sanction the arrangement rather than break off the negotiation, at which issue we had frequently stood, in the progress of it, was calculated to make that impression. But it was much strengthened by a knowledge, that the whole arrangement would expose them to very severe and probably successful attacks from the opposition, while they had no expectation that it would be popular in the country.

By your letter of Feb. 3d, 1807, in reply to ours of Nov. 11th, 1806, the course which the government resolved to pursue was announced. By it we were informed, that the President disapproved the informal arrangement proposed by the British commissioners relative to impressment, and was resolved to enter into no treaty with the British government, which when limited to, or short of strict right on

every other point, should include in it no article on that particular one; that in case such an article could not be obtained, we should terminate the negotiation without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party would entirely conform to what should be thus informally settled between them. And we were authorized to give assurances, in case such an arrangement should be satisfactory in substance, that as long as it should be respected in practice, particularly on the subjects of neutral trade and impressment, the President would earnestly, and probably successfully, recommend it to Congress not to permit the non-importation law to go into operation; and in the mean time, that he would exercise the power vested in him by an act of Congress, if no intervening intelligence forbade it, of suspending its operation till the meeting of Congress, who, being in session, would have an opportunity to make due provision for the case; and finally, that if a treaty, which did not provide for the interest of impressment, should have been concluded before the receipt of that letter, we should candidly apprise the British commissioners of the reasons why it would not be ratified, and invite them to enter again on the business with a view to such a result as was desired.

By this letter the arrangement which we had sanctioned, comprising the informal one relative to impressment, and that by treaty on the other topics, was rejected, and in lieu of it we were instructed to enter into an informal understanding or arrangement of the whole subject, and as was to be inferred from the fair import of the letter, on the same conditions. It was the more to be presumed that the government was willing to accept, in the mode which it proposed, the conditions which we might be able to obtain in the other, from the consideration, that the latter were under its view at the time the instructions were given, by the paper of the British commissioners of November 8th, and our letter of the 11th, and the certainty with which it, as well as we, must have been impressed, that more favourable could not be expected.

In defending myself against the imputation of having sacrificed the rights of our seamen, I shall be permitted to derive support from the conduct of the government itself in the same interest. Under that impression, I have to remark, that I consider the conduct of the government as furnishing the most ample vindication of that of the American commissioners. The government was equally willing to enter into some arrangement, which should preserve the peace of the country, although it should not accomplish the object which had been so ardently desired. The only difference between the plan which we sanctioned and that which it proposed, was that the whole arrangement should be informal. Had the administration resorted to war as a preferable alternative, or been willing to leave the business unsettled, its policy and example might have been plead against us; but in offering to accept the same conditions in an informal mode, and to withdraw, in some form, the non-importation law as a motive to it, it showed that the considerations which had been respected by us had as much weight with it.

But the conduct of the administration furnishes other strong arguments in favour of the arrangement proposed by the American commissioners. By engaging to observe the informal arrangement which we were instructed to enter into, as long as Great Britain should observe it, it seemed as if the United States would be deprived of the right of insisting on other terms, however favourable the opportunity for it might be, while Great Britain would be at liberty to depart from such arrangement whenever the events of war furnished her an adequate motive for it. This was the opposite of our arrangement as I have stated above, by which, as we presumed, she would be bound, and we free. Certainty to our merchants was all important. Any fair well defined rule, within which they might prosecute in safety their enterprises, although it might fall short in some respects of our just claims, might perhaps be preferable to frequent collisions which put every thing at hazard. In any event it was an object of great im-
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tance to keep the peace of the country in our own hands, by retaining the right to resort to war when it suited us and then only.

I will now proceed to the other topics, which are adverted to in your letter of May 20, 1897, and on which I shall be as concise as possible. In your examination of the treaty you notice several of primary importance, which you conceive to have been improperly arranged in the articles which refer to them. I will pursue in my remarks the order which you have traced.

You consider the 11th article as objectionable in having shut to our commerce important channels which were left open to it, by the decisions of the British courts, and the principles contained in the communication from Lord Hawkesbury to Mr. King. In support of that opinion you observe that as the article stipulates, that the United States may carry the manufactures and productions of Europe, from their own ports, to any colony of the enemies of Great Britain, they are prohibited by it from carrying the manufactures or productions of the countries beyond the cape of Good Hope, in like manner, to such colonies. You observe also that as the United States are authorized to carry from their own ports the productions of enemy colonies to Europe, they are prohibited from carrying these productions to the southern coast of the Mediterranean, or beyond the cape of Good Hope, or to any other enemy or neutral colonies in this quarter.

I am persuaded that you will be satisfied, on further consideration, that this construction of that article is unfounded. It is not the object of the article to regulate the general commerce of the countries, or to compromise their claims in any case to which the regulation does not explicitly extend. The regulation prescribed by it applies to a case of controversy between the parties, in a point of immediate contact, and it was the object of the article to adjust the controversy in that point. If we advert to the issue which was made up between them, as clearly defined by the orders of the British government, the decisions of

the courts of admiralty under them, and the discussions which took place between the governments on the subject, we shall find that in no view can the construction which you impute to the article, be supported.

The issue lately made up between the parties involved solely the question, what circumstances, or acts, to be performed in the neutral country, were necessary to break the continuity of a voyage from the colony of an enemy to its parent country, or some enemy country in Europe? This point had been settled, as was presumed, by former decisions of the British courts of admiralty, and explanations of the British government, in a manner which was so far satisfactory to the United States as to justify a belief, that if those decisions and explanations had been adhered to, the existing controversy on this subject would not have arisen. But in 1805 the British courts of admiralty insisted on the performance of new acts in the United States, or what amounted to the same thing, extended by construction the doctrine of former decisions in such a manner as to make the performance of new acts, such too as were of a nature highly onerous and oppressive, indispensably necessary. On this special point the parties were at issue, and the sole object of the article was to adjust, by temporary arrangement, the controversy on that point. The rights of the parties, in every other instance, not within the scope of the adjustment, were to remain, of course, untouched; and, in that particular one, to revive at the expiration of the term limited for the duration of the article.

A concise analysis of the several orders of the British government relative to the trade of neutral powers with enemy colonies, will place, in a clear point of view, the ground of the controversy between the parties, and the precise object and effect of the regulation proposed by the article under consideration. The first order bears date on the 4th Nov. 1798. It directed the British cruisers to bring in for lawful adjudication all vessels laden with goods, the produce of any colony of France, or carrying provisions or supplies for such colony. That order amounted, in express

terms, to a declaration of war against the neutral powers, and it was issued in that spirit by the British government. The policy, however, which dictated the order, did not last long. Events soon produced a change of policy, and with it a revocation, or, to use the technical phraseology of the admiralty, a relaxation of the order. The second order was of the 8th January, 1794. It directed the cruisers "to bring in all vessels laden with goods, the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe." This order being directory, prescribed the case in which neutral vessels engaged in such a trade should be seized, and thereby confined the seizure to that case only. No vessel engaged in that trade which did not come within the scope of the order, could be touched. Thus the effect of the order was to inhibit the direct trade of the United States, between enemy colonies and Europe, in the productions of those colonies. It left the trade free between the United States and enemy colonies, and between the United States and Europe, and of course every other country. It left it free also in the direct line between enemy colonies and Africa and Asia. By confining the restriction to Europe, those countries were necessarily exempted from its operation. The third order, of the 25th January, 1798, directed the cruisers to "bring in all vessels laden with cargoes, the produce of any island of France, Spain, or Holland, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of Great Britain, nor of the country to which such ships being neutral belonged." The sole effect of this order was to extend to the neutral powers of Europe, the accommodation which had been yielded to the United States by that of 8th January, 1794. The next order bears date on the 24th June, 1803. It directs the cruisers not to seize any vessel which shall be carrying on trade directly between the colonies of enemies and the neutral country to which the vessel belongs, and laden with the property of inhabitants of such neutral country; provided such vessel

shall not be supplying, nor have supplied the enemy on the outward voyage with any articles of contraband of war, &c. The sole object of this order appears to have been to introduce a new rule relative to contraband, by subjecting a vessel to seizure on that account, on her return voyage, after depositing her cargo at her place of destination. It prohibits the seizure of neutral vessels, European as well as American, engaged in a trade between enemy colonies and the neutral countries, by positive inhibition. That trade had been left free before, by the restriction of the seizure to vessels engaged in the direct trade between enemy colonies and the parent country. It was now secured by positive inhibition. The right to carry on the trade from the neutral country to other countries, was left on the ground on which it stood before. That this order was not intended to affect that trade, and did not affect it, is made sufficiently evident by many decisions of the courts of admiralty, which have been given since the order was issued. In proof of this, I refer to all the cases that were decided by the British courts of admiralty, touching the trade of neutrals with enemy colonies in the years 1805 and 1806, and more especially to that of the *William Trefrey*, it being the last one, and containing a summary of the whole doctrine.

If we recur to the decisions of the courts themselves, we shall find a full confirmation of what is here advanced. We shall find that in conforming their decisions to the spirit of the orders of the government, they inhibit the direct trade only between the colony and the parent country, or some other country of Europe; that they do not call in question the trade between neutral powers in the productions of enemy colonies, after those productions were allowed to have been incorporated into the stock of the country; that they gave recent and high offence only by the new doctrines advanced, on this latter point, which, by assuming to investigate the motives of the parties engaged in the trade, and to reject acts which were before deemed satisfactory by decisions the most solemn, and to

impose new conditions the most onerous and oppressive, laid that commerce completely at the mercy of British tribunals. The most material cases are those of the *Immanuel*, which involved the question of a trade between Bourdeaux and St. Domingo, that is, the direct trade between the parent country and its colony, in which the goods were condemned on that account. Rob. Rep. 2d vol. page 186. And of the *Polly, Lasky*, in which the vessel was taken on a voyage from Marblehead to Spain, charged with the productions of the Havana, brought to Marblehead by the same vessel. In this case the question of continuity of voyage was involved, and the court decided in favour of the American claim, on ground that gave no offence. It was admitted in explicit terms by the judge, that an American had a right to import the produce of the Spanish colonies into his own country, and to carry them on thence to the general commerce of Europe, and that the landing of the cargo and payment of the duties would be sufficient criteria of a bona fide importation. 2d Rob. Rep. page 361. The next cases were those of the *Essex*, *Orne*, of the *Rowhena*, and some others of the same kind, in 1805, which turned on the point of continuity of voyage, in which the court, pushing its doctrine to the unjust and pernicious extent complained of, produced the controversy which took place between the countries.

The communication between Mr. King and lord Hawkenbury is of the same character. The advocate general admits in his report, which was adopted by lord Hawkenbury, and communicated by him to Mr. King, that by the relaxation of the general principle respecting the trade with enemy colonies, it was distinctly understood, and had been repeatedly so decided by the court of appeal, that the produce of enemy colonies might be imported into the neutral country, and re-exported thence *even to the mother country* of such colony; and in like manner that the produce and manufactures of the mother country might be carried to its colonies. He states that the direct trade between the mother country and its colonies had not been

recognized as legal; that what amounted to an intermediate importation into the neutral country, might sometimes be a question of difficulty; that the mere touching in the neutral country to take fresh clearances, might perhaps be deemed evasive, and in effect the direct trade; but that the high court of admiralty had expressly decided (and he saw no reason to expect that the court of appeal would vary the rules) that landing the goods and paying the duties in the neutral country would break the continuity of the voyage, and was such an importation as would legalize the trade, although the goods were re-shipped in the same vessel, on account of the same proprietors, and were forwarded for sale to the mother country of the colony.

This communication corresponds in every the minutest circumstance with the spirit of the orders and decisions of the courts as above explained. It insists, and in terms that are far from being positive, that the direct trade only *between the mother country and the colony*, was inhibited. It admits that the trade through the neutral country to the mother country of the colony was lawful, and fixes, with great precision, the acts to be performed in the neutral country, which would be sufficient to incorporate the goods into the stock of the country, and break the continuity of the voyage. In the latter part of the report alluded to, the advocate general seems to make a kind of reservation of the right of the court of appeal, to revise the decisions of the high court of admiralty, which he represents to have settled the doctrine. But he makes that reservation, if indeed it was intended as one, in such terms as to preclude the idea, that it would ever be taken advantage of, especially when it is considered, that the report was adopted by the government, and communicated officially, by the secretary of state, to a foreign minister. It is certain, however, that through the court of appeal, the new encroachment on the rights of the United States was made, which produced the controversy which ensued immediately afterwards.

The discussion which took place between lord Malgrave and myself in 1805, on the subject of the seizures then made, treated the encroachment in that line as the special cause of complaint on the part of the United States. Although the British pretension to inhibit even the direct trade, had not been countenanced by the government, yet the commerce of the United States had been made in a certain degree to accommodate with it by the merchants. They were content to decline the direct trade, and to prosecute their enterprises through the United States, equally with the mother country and its colonies. It was natural, in the course of a controversy which involved such important interests, that the rights of the parties should be taken up on principle, and carried to the greatest extent. To the light thrown on the subject by a very able essay, which I received from you, I was much indebted, and I acknowledge in this communication, the aid which it afforded me, with peculiar satisfaction. A vindication, however, of the cause on principle, however extensive the range might be, could not affect the origin of the controversy, nor give to the article entered into for its adjustment a construction different from that which, by well established rules, is fairly applicable to it.

From this view of the several orders of the British government, and from the exposition given of them by the courts, and by the government itself, it appears that the sole object of those that were issued after that of the 6th November, 1793, was to inhibit the direct trade of the United States between enemy colonies and Europe; that they did not touch, and were not intended to interfere with the trade between the United States and Europe, even the parent country, and a fortiori between the United States and Asia and Africa. It was, indeed, the object of the order of November 6th, 1793, to suppress the commerce of neutral powers with enemy colonies altogether; but that being abandoned, the next idea which occurred was to embarrass that trade by forcing it through neutral countries. Here, then, arose a new question, which turned

entirely on another principle. That a neutral power had a right to carry on trade from its own ports, in any articles, though of foreign produce, which had been incorporated into the stock of the country not contraband of war, and to all countries, was not controverted. That point, otherwise clear and indisputable in itself, had been long settled in the highest tribunals, and by the most eminent jurists in England. The circumstances which constituted such an incorporation of foreign articles into the stock of the country, had also been settled by the same authorities. Still the question which now arose, turned on this latter point. In forcing this commerce through neutral ports with a view to embarrass it, it became necessary [to give the greatest effect to that expedient] to increase the difficulties in those ports, which was done in the manner already stated.

If the instructions of the British government did not inhibit the trade in question, the adjustment contained in the article under consideration could not affect it. That article supposes a *difference* between the parties relative to a trade with enemy colonies, and the *instructions* which interfere with it. The article could not operate in any trade to which the instructions did not extend, and concerning which there was no controversy. In the present case the conclusion is the more irresistible, because there did not exist even a possibility of controversy in regard to that trade.

But it is inferred, that because it is stipulated, that the produce of enemy colonies may be carried to Europe from the United States, that the ports of Asia and Africa are shut on them; and that because it is stipulated that the manufactures of Europe may be carried from the United States to the West Indies, that those of Asia and Africa are prohibited from being carried there. This objection has been already obviated. Had the instructions of the British government inhibited that trade, and a controversy between the governments arisen from the inhibition, as the article does not extend to the case, the most that could have been inferred, would have been, that it was unprovided

for, and that the rights of the parties would remain in the same state respecting it, as if the article had not been entered into. It is easy to explain the cause why the term "Europe" was introduced into the article, in reference to the ports to which colony produce might be carried, and "European" in reference to the manufactures which might be carried to enemy colonies, and to show that they were adopted with a view to open on the widest scale the ports which had been at any time shut on them by the British orders. Although the policy of these orders, as well as of the principle on which they are founded, is more particularly applicable to the direct trade between enemy colonies and their mother country, yet as the term "Europe" had been adopted in the modifications that were made in them, first at the instance of the United States, and afterwards at that of the neutral European powers, as the widest scale within which the inhibition operated, it was thought best to use that term to prevent the possibility of mistake, as to the extent of the adjustment. Had terms of more extensive import been adopted, they could not have been more effectual to the object, while they might have tended to enlarge the sphere of British pretension, by extending it to cases to which it would be highly improper to give a sanction.

But it is supposed that although the orders of the British government may not have inhibited this trade, it is comprised in the general inhibition of the British principle. If the British principle inhibits such a trade, which I do not admit, it does not follow that a sanction to that inhibition is given by this article, for reasons already stated. If the provision of the article does not extend to that trade, the rights of the parties cannot be affected by it. They remain equally in force against the principle, as against the instructions, had they inhibited it. But the claim to an exemption from that trade from the operation of the British principle, rests on still stronger ground, admitting that it ever extended to it, which however I am far from admitting. It can be shown that the orders themselves, take it

completely from within the scope of that principle. By instructing the cruisers to seize vessels engaged in a particular trade, every other trade is allowed. It is in that mode, that what is called a relaxation of the British principle, is effected. The order reduces the principle to its own standard, or, in other words, becomes the principle itself. If this doctrine is not true, it is impossible to designate in what mode the relaxation, which is universally admitted, of the British principle, is wrought; or to prove that there has been any relaxation of it whatever. If the orders have not that effect, of what avail are they? That they have that effect is proved by the decisions of the courts, and the practice under them. I am aware of the broad doctrine held by the courts on this subject, but that doctrine, necessarily ambiguous from the dilemma in which the courts were placed by the inconsistent orders of the government, if not reconcileable to this construction (as I think it is, when the whole subject is taken into view) is contradicted by the decisions of the same courts and the explanations of the government itself.

I say that this trade is not inhibited by the British principle, because it supposes a trade between enemy colonies and the mother country. But a trade between the United States and Asia or Africa, let the subject of it be what it may, is not a trade of that kind. It is a trade with independent powers at peace with Great Britain, with whom we have a right to trade, by all the rules which Great Britain has at any time insisted on. It would be of dangerous tendency to admit that Great Britain had a pretension to interfere with such a trade in any case. After the goods are received into the United States, no matter of what articles they consist, or from what quarter they came, they are the property of the country, and may of right be shipped to any other country. The British principle does not controvert this doctrine. It asserts in its widest range the right only to seize them on their route to the neutral country, and from it to the mother country of the colony, or some other enemy country of Europe, provided they be

not incorporated into the stock of the neutral country. If they are, they may go under the arrangement made to the countries to which the British principle applies. But they require no sanction from the British government, to go to those to which it does not apply. The destination of the vessel alone would, as I presume, dispel every doubt of the legality of the trade, and preclude all farther inquiry concerning it. The question of continuity of voyage could never arise in such a case. It is certain that the arrangement alluded to gives no sanction to it, and for the best of all reasons, that the trade was not admitted, or even contended to be comprised within the range of British principle.

I shall close my remarks on this point by observing, that as the arrangement of the acts to break the continuity of the voyage from the United States to the parent country, and other enemy countries of Europe, in the produce of their colonies, and from the United States to those colonies, in the manufactures of Europe, is confined strictly to that object, the rights of the parties remain unimpaired in every other circumstance relative to that trade: that as the article contains no stipulation against the direct trade from the colony to the parent country, the right to carry on even that trade is not necessarily suspended by it: that if in any view it can be considered as suspended, it is by implication arising out of the whole transaction, rather than from the stipulation itself. How much stronger then is the conclusion already drawn from other premises, that nothing is to be deduced from that article to justify the construction which has been imputed to it.

The remarks above made, refer more particularly to a trade between the United States and Europe in the produce of enemy colonies. They are however equally applicable to the other objection stated in your letter, of a trade between the United States and enemy colonies, in the produce or manufactures of Africa or Asia. None of the orders alluded to, inhibit that commerce, and it is most certain that the article alluded to, gives no sanction to such a pretension.

As to the conditions by which it is agreed to break the continuity of the voyage, I have to observe that they are as favourable as you had expected. We were authorized to stipulate, if better conditions could not be obtained, that the goods should be *landed*, the *duties* paid and the ship *changed*. We stipulated, only that the goods should be landed, and the duty paid, making the duty on European goods one per cent. and on colony productions two. By exempting the party from the necessity of changing the ship, an important advantage was certainly secured. By fixing the duty at one per cent. in the one instance, and at two in the other, it was not possible that the slightest embarrassment should be thrown in the way of the trade. The duty payable on manufactures consumed in the country is about 15 per cent. and on West India productions 25. The trifling amount made payable to the country on the re-exportation of the articles, could not be felt by the merchant. It would fall on the European consumer. It could not be felt as a heavy imposition on the trade itself. Our only competitor in it, would be Great Britain, whose merchants would labour under the disadvantages incident to war, in a thousand shapes, more especially as the ports of the whole continent would be shut on them, in not being able to get their goods into those ports, otherwise than by smuggling them: a mode which could not fail to be onerous, if it succeeded, but which was likely to fail in most cases. It should be remembered also, that the increased duties which would accrue to the country would tend, in the degree, to interest the whole community in support of a commerce, in which the commercial part was most materially interested. It is the policy of the European powers having colonies in the West Indies, to make the parent country the entrepot of the productions of its colonies. Is not that policy worthy the attention and imitation of the United States, in respect to the trade of the colonies in question? The duty received would make some recompense to the nation for the expenses incurred and sums expended in supporting our right to that trade. Besides,

by making the ports of the United States the "entrepôts" for such productions, the country in general would derive some advantage from the measure. Every ship engaged in the commerce which entered an American port, would bring something to, and take something from it. The vast amount of Asiatic, European and West India articles brought to our markets, would cheapen the price of those articles at home, and each ship, while in port, and in the prosecution of her voyage, would require supplies in provision and other articles, which would raise the price of those articles, to the great advantage of the general interest of the country.

The limitation of the article to the term specified, was a condition which we presumed might prove advantageous to the United States, while it could not possibly injure them. It is expressly stipulated that the right of both parties shall revive at the expiration of the term. Those of the United States, therefore, would then be in force, and to the full extent of their pretensions, in the same manner as if the stipulation had not been entered into. In another war they might insist on conditions which this stipulation did not secure, and, if Great Britain did not yield to their demand, they might resort to any expedient, to compel her, which the wisdom of their councils might dictate. Any encroachment on the part of Great Britain on their rights, as heretofore contended for, might be considered by their government an act of hostility, and treated accordingly. The least favourable conditions that she could offer would be those already settled, which the United States might accept or reject, as they thought best. As a youthful, prosperous, and rising nation, it could not be doubted that in the next war their situation would be more imposing than in the present one. The presumption is, that they would be able then to obtain better conditions than at present.

On the third article I have to observe, in addition to what is stated in our joint letter of January 3, 1807, that nothing would have been more easy than to have omitted

any provision on the subject of it, and to have placed that trade on the footing of the most favoured nation. To obtain better terms by treaty was utterly impossible. We were much inclined to omit any provision on the subject, because we were aware that the arrangement made would fall short of the expectation of our government and country, and most probably subject us to censure. We acceded to that arrangement from a conviction that it secured us better terms than we should be likely to enjoy, if left to depend on the pleasure of the British government, stimulated as we knew that was to restrict us in it by the India Company, and other interests of the country. It is impossible to conceive too high an idea of the jealousy which is entertained of the United States, in a commercial view, by that government, and of the danger with which it thinks Great Britain is menaced by their extraordinary prosperity and rapid growth. The boldness of the projects, and the activity and ability with which they are prosecuted by our merchants and mariners, excite the admiration of Europe. Great Britain has seen, that, wherever our citizens gained a foot-hold, they never lost it. Without distrusting her own means, or the hardiness and activity of her people, she finds that our position, remote from Europe, contiguous to the West Indies and the southern continent, and as near to India as herself, give us advantages, against which she cannot cope. The effort which we made and persevered in for several months to gain admission into British India, on more favourable terms, and the disposition which was shown by the British commissioners to yield, excited a sensation, or more properly speaking, an alarm in the board of India directors, and of the commercial people in general, even among those who had no particular interest in the question, which was extremely obvious. Had we made no provision in the treaty to secure our admittance into India, on certain conditions, we had much reason to believe that that commerce would have been fettered to an extreme degree, and in every form.

We were extremely anxious to provide that our citizens

might make their shipments from Europe, to take specie from Spain and Portugal, goods from England, &c. and that they might touch at the cape of Good Hope, at the isle of Bourbon, at the Mauritius, &c. that they might carry on the coasting trade in India, and be permitted to pass from Calcutta to China. These advantages were insisted on, but the pressure which we made produced reports from the board of directors, at the instance of the government, and from political men conversant in those topics, which fixed the government in its decision not to grant them. I repeat, however, that it would have been easy to have omitted the regulation from the treaty, and placed the trade on the footing of the most favoured nation, as it would have been at any time afterwards, had the state of affairs in other respects permitted it.

By your instructions, a provision in favour of indemnity was not made an indispensable condition of a treaty. We were authorized to conclude one without it. We were, therefore, persuaded that the ground on which that interest was placed, could not fail to be approved. The arrangement which we made, authorized a just claim to expect a dismissal of all the causes that were depending in the courts of admiralty, and even to an indemnity in the cases of condemnation. The documents which we forwarded to you in our joint letter of _____ give a full view of this subject, and to them I beg to refer.

Your fifth objection applies to the 18th and 19th articles of the treaty, and in the first instance to the prohibition it contains, of extending the privileges which are made reciprocal between the parties, to other nations, which is supposed to be a breach of neutrality. Had I conceived that those articles were justly exposed to that imputation, I should certainly not have assented to them. But I saw no foundation for the imputation. With Spain and Holland we have treaties which secure them all the rights to which they are entitled. It is usual, and certainly proper, for a nation in estimating its claims on other powers, to examine its treaties with them, and not to think of setting up a pre-

tension beyond the limit of such treaties. By treaty, neither of these powers have any right in the case in question, nor have we in the ports of either. By treaty, Great Britain had enjoyed those rights in the ports of the United States, as we had in her ports from the year 1794. Spain and Holland knew the conditions of that treaty, which was in force at the commencement of the present war, and some time afterwards, and would have been in force till late in the last year, had a special condition of the 12th article been carried into effect. To renew the treaty in the express terms of the former one, a treaty which deprived no one power of any existing conventional right; which subjected none to conditions to which they had not been always subjected; which allowed to Great Britain, on principles of reciprocity, a privilege which there was no reason to presume that any other power, especially Spain, would consent to reciprocate with the United States, did not seem to be liable to the objection stated to it. The general principle which you advance, of extending these privileges to as small a number of powers as possible, had also some weight in inducing us to accede to the arrangement. France is admitted to an enjoyment of them in the same extent with Great Britain. She, therefore, has no cause of complaint. I do not think that the stipulation forbids any arrangement of the government, relative to the number of ships of war that shall be admitted into the ports of the United States at one time, or any regulation relative to their conduct while within the ports of the United States, provided it be general and equally applicable to both powers. A stipulation that the ships of war of each nation shall be hospitably received into the ports of the other, does not necessarily imply that there is to be no rule as to the numbers to be admitted into the ports to which they shall be confined, or the order they shall observe while in port. All these topics have been at all times, as I have reason to believe, the object of regulation by Great Britain, and I have equal reason to believe that her government did not

consider itself as having abandoned its right to regulate them by this article.

Your next objection applies to the last paragraph of the 19th, taken in connection with the 12th article. By your construction of those parts of the treaty, the United States would be bound to claim redress in favour of Great Britain of her enemies, for any acts of hostility which they might commit on her ships of war or merchant vessels, within the additional limit, while she might commit, with impunity, like acts of hostility on the ships of war and merchant vessels of her enemies, in case they did not acknowledge it, and against their ships of war in case they did, although her own ships of war in both cases would be protected within it. I was decidedly of opinion, and still am, that while those articles secure to the United States an unconditional advantage, none whatever is stipulated by them in favour of Great Britain, which must not of necessity be common to her enemies; that her privilege, on the contrary, whatever it may be, must be founded on their consent, follow, and terminate with it.

The 12th article stipulates that Great Britain shall not stop the vessels of the United States within five marine miles of their coast, except for the purpose of examining whether they be American, or those of another power; and that she shall not stop the unarmed vessels of other powers within the same limit, provided they acknowledge it, except to ascertain whether they belong to those who have acknowledged it. The vessels of the powers who do not adopt the regulation are not affected by it. They remain under the ordinary protection of the law of nations, which extends to the distance of cannon shot, or three miles from the coast. Beyond that limit the enemies of Great Britain have a right to search and seize her vessels, without being amenable to the United States; and the same right is reserved to her by this article as if it had not been entered into. Vessels of war are expressly excluded from the advantage of the regulation.

It is the sole object of the 12th article to secure to the

United States an accommodation, by extending their jurisdiction on their coast, in what concerns themselves, from three to five miles. The stipulation is unconditional as to them, but conditional as to other powers, dependent on their acknowledging the same limit. It is made reciprocal, by being extended to the British dominions northward of the United States, a circumstance which merits attention, as it precludes the idea that any other equivalent was expected or intended to be given for it. It would have been extended to the dominions of Great Britain in Europe and elsewhere, had the British commissioners desired it. They declined it, from a fear that it might produce some innovation in the general doctrine of the law of nations on the subject. This is, I think, fairly to be inferred from the instrument itself.

The last paragraph of the 19th article stipulates, that neither of the parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor within the jurisdiction described in article 12th, so long as the provisions of the said article shall be in force, by the ships of war of other powers; but in case it should so happen, the party, whose territorial rights shall thus have been violated, shall endeavour to obtain from the offending party, full and ample satisfaction for the vessels so taken, whether the same be vessels of war or merchant vessels.

If any advantage is given to Great Britain by the arrangement proposed by the 12th article, and this clause of the 19th, to the prejudice of her enemies, or of the United States, it must be by this clause. She can certainly claim none under the 12th article. This clause consists of two distinct members of very different import. The first contains a general stipulation, conformable to the law of nations, applicable to all the dominions of both parties, and equally so to their ships of war and merchant vessels. With respect to the latter, however, it is conditional. The second member applies to the arrangement made in the 12th article, and in the sense and spirit of that article.

If the 12th article is carried into effect in favour of other powers, which can only be done by their consent, then the advantage which is secured to them by it, will accrue likewise to Great Britain. What is that advantage? Protection to their merchant vessels within the additional two miles, and nothing else. It is obvious, that the protection which is stipulated in favour of ships of war, is provided for by the first member of the clause, and not by the second. It cannot be by both, for the distance defined by them is different, it being three miles in one, and five in the other. It is equally obvious, that the stipulation contained in the second member of the clause, relative to the 13th article, is intended to operate in the spirit of that article, and to be made dependent on it. By the terms "nor within the jurisdiction described in article 12th, so long as the provisions of the said article shall be in force," the stipulation contemplated is made conditional. In force, in respect to whom? Not the United States, because it was unconditional as to them. It was conditional only with respect to other powers. Other reasons might be given to shew that the arrangement under consideration is not liable to the objection made to it, but I presume that those stated will be satisfactory.

The difficulty to obtain the accommodation which was yielded in the 13th article was extreme. We laboured most earnestly to extend it to other powers, without their consenting to reciprocate it in favour of Great Britain; but that could not be accomplished. The British commissioners urged that as Great Britain predominated at sea, and must lose by the concession in any form, it would be unjust for her to make the concession in their favour, unless they would allow her the advantage of it. Finding that it was impossible to extend the additional limit to other powers, on other terms, we thought it advisable to adopt the arrangement in respect to them conditionally, putting it in their power to accept or reject it, as they thought fit. We flattered ourselves that as they could not lose by it, they would not refuse their assent to an ar-

arrangement by which they might gain, especially as it would prove advantageous to a friendly power. We deemed it highly important to establish the additional limit in favour of the United States, from the advantage it might afford to their commerce within it, and from the effect which the measure seemed likely to produce on the future conduct of the British squadrons on our coast, by whom it could not fail to be considered as a severe censure on the past.

It is readily admitted that more suitable terms might have been adapted to accomplish the object in view. But it ought to be recollected, that as the right of jurisdiction imposes of necessity the obligation of protection, without a special exception to it, there was some difficulty in making an arrangement which should secure to the United States the advantage which they desired, and at the same time exempt them from the duty incident to it.

To your 6th objection, little need be added to what is stated on the subject of it, in our letter of January 3d, 1807. As the paper of the British commissioners to which it relates, had no sanction whatever from us, as was fully shown by that letter, the objection cannot be said to apply to any part of our conduct. The paper was produced by the decree of the emperor of France, of the 21st November, 1806, and was intended by the British commissioners, to operate as a reservation of right, in their government, not to ratify the treaty, or not to be precluded, under certain circumstances, in case it did ratify it, from adopting such measures, as it might find necessary, to counteract the restrictions imposed by that decree. The exercise of the right reserved was made dependent on the abandonment of the principle of that decree by the French government, or an assurance from the government of the United States, or such conduct as would be equivalent, that the pretension would not be submitted to by it. We apprized the British commissioners that our government would enter into no engagement whatever, of what it would do, in any case, with another power. Had the treaty been ratified, even without any notice being taken of that paper, it could

the treaty was concluded. Those evils would, however, have been completely done away by this article. By it the United States would have had a right to raise the duty on British vessels to any height to which the British government might raise it on theirs, a check which could not fail to prove adequate to the object, while they had also a right to give what preference they thought fit to their own vessels, which might be done by reducing the duty on them below the tonnage which was imposed on those of Great Britain. This arrangement secured to the United States an advantage which Great Britain could not countervail, as the necessity she is under to avail herself of every resource which she can command to raise revenue for indispensable purposes, renders it impossible for her to make a like discrimination in favour of her own vessels. The inhibition of all discriminating duties, on the productions of the one, and manufactures of the other party, whether they be carried in American or British bottoms, was a stipulation which it was presumed would also prove highly advantageous to the United States. The pernicious tendency of that principle was well known to you, and we were happy to be able to suppress it.

The objections which you urge to other parts of the article, apply to clauses in the treaty of 1794, which it was impossible for us to change. I have, however, to observe that there is nothing in it to prevent the passage of a navigation act, provided it be adopted as a measure of general policy. Most of the nations of Europe, especially France, would be happy, in a general view, to see the United States resort to that expedient to counteract the restrictive system of England; and as it is one which could not essentially affect them, they could find no motive of that kind to inspire a wish to oppose it, nor could the United States, as I supposed, find one to exempt them from it.

We regretted that we could not obtain a stipulation which should compel Great Britain to repeal the laws which impose so high a duty on her manufactures, when

exported to the United States. Our letter showed that we did every thing in our power to obtain such a stipulation. I was, however, persuaded, that the want of it would not expose us to all the evils which you seem to apprehend from it, admitting that the British construction of that clause in the former treaty was a sound one, and that nothing is contained in the 23d article of the present one to discountenance it. It is certain that no government will ever tax exports higher than indispensable necessity compels it, because such a tax tends in all cases essentially to check industry, and to destroy the most productive source of national prosperity. The inhibition imposed by the constitution of the United States on the Congress, to tax, in the slightest degree, their exports, affords a strong argument, drawn from the acknowledged wisdom of its framers, against the policy of such a tax, in the abstract; and I am persuaded that the reasons against it are as strong with Great Britain, if not stronger, than with any other nation. Without taking a more comprehensive view of the subject, it is sufficient to observe, that a tax on British exports must operate as a bounty in favour of American manufactures, which are already in an advanced state, in certain parts of the union. Great Britain must be sensible of this fact, and aware of the encouragement which the present export duty gives them, and of the consequences attending it. I should presume that there was not much cause to apprehend, that she would tax the export of her manufactures to the United States, to prevent their being sent thence to other countries. The sole effect of such a tax would be to scoure to her own vessels the carriage of the articles, if indeed that were attainable. In both cases the manufactures of Great Britain would be the subject of the commerce. The supply of the great, the productive and increasing markets of the United States, must be a primary object of British policy, and Great Britain would doubtless be cautious not to hazard it for one comparatively of much less importance.

ART. 6. As this article was approved, I shall only

observe, that I considered the reservation contained in it important, as it enabled the United States to counteract the British policy, in respect to the trade with the West Indies, which is the object of it, by means the most efficacious, whenever they should be resorted to. The trade of Great Britain with the United States is carried on principally by circuitous voyages, in which her vessels pass from the ports of the United States to the West Indies. By suspending the intercourse between the United States and her West Indies, in British vessels, the chain would be broken, and the whole commerce in such vessels be, in a great measure, suspended. The provision in the article obviously looks to such an object, and the time of carrying it into effect, unless the trade should be placed on satisfactory ground, would have depended altogether on the United States.

Having already noticed the subjects which are embraced by the following articles, I shall add but little more, on any of them, to what is said in our joint letter of January 3d, 1807. The 7th was taken literally from the treaty of 1794. The 8th and 9th amended, as you allow, the articles in that treaty on the same subject. The 10th, relative to blockade, taken in connection with the British paper of December 31, 1806, placed, as I presumed, that interest on ground which would be satisfactory. The preamble cannot affect it unfavourably, as it does not alter the acknowledged law. The only effect which it could have, would be to admonish the courts to be cautious in admitting evidence of notice, on account of the distance of the United States from the blockaded ports. It was supposed to give the United States a claim to a more favourable rule in respect to evidence, than was allowed to powers more contiguous to the theatre of action. The doctrine contained in Mr. Merry's note to you was not contested by the British commissioners. It is, on the contrary, maintained in their note to us of December 31st, 1806, in which it is asserted to be notorious "that the king did not declare any ports to be in a state of blockade without

allotting to that object a force sufficient to make the entrance into them manifestly dangerous." I quote the passage in their note to observe that the doctrine is not made conditional on any other part of it, but is laid down as the established law. It justifies the additional remark that the preamble was not intended and cannot be construed to alter the law. It follows that it cannot produce any other effect than that which is above imputed to it.

The 13th article relates to the search of merchant vessels, and differs from the 19th of the treaty of 1794, in the introductory sentence, which enjoins it on the commanders of ships of war and privateers, to observe in the course of the war, which may then exist, as much as possible, the acknowledged rules and principles of the law of nations; and also in the penal sum [which it increases] to be given by the commanders of privateers before they receive their commissions, as a security for their good conduct under them. It was supposed that in this, as in the preceding case, the law remained untouched, and that the stipulation produced no other effect, than to enjoin it on the governments respectively, to be particularly attentive to the conduct of its officers in the respect alluded to.

The 13th article and the paper of the British commissioners of the 31st of December, 1806, obviously look to the Russian convention, as the standard of the acknowledged law respecting the search of merchant vessels and blockade. That instrument was held constantly in view on both sides, in every discussion on those subjects, and indeed on every other to which it extends, and its doctrine admitted, especially in those, to be the established law. We were extremely desirous, and used our best exertions, to introduce articles to the same effect, into our treaty, but it was utterly impossible to accomplish it. It must however be allowed, that if engagements of the kind alluded to, especially in regard to blockade, for which there was a special document, would not be observed, that it would be useless to stipulate them by treaty.

On the subject of the 17th article, I have already made

some remarks under another head. I cannot think that a stipulation to receive the ships of war of each party, hospitably into the ports of the other, restrains them from limiting the number of ships to be admitted at one time, or from designating the ports to which they shall be admitted. A stipulation to admit them settles only, as I presume, the principle, that they shall be admitted, and leaves open to arrangement the other points connected with it. This opinion is supported by a passage in the article itself, as to the ports which secures to vessels which might be driven by stress of weather, &c. into ports not open to them in ordinary cases, an hospitable reception in such ports. Had the right to designate the ports been given up by the general stipulation, there would have been no necessity for that contained in this passage. The remark is equally applicable to the other case, that of the number to be admitted at one time. As that must be an affair of special and strict regulation, an exception which admitted more, by securing rights to them in case they entered, would necessarily defeat the limitation itself.

The stipulation which relates to the good treatment of the officers of each party in the ports of the other, being reciprocal, contains no reflection on one, which is not applicable to the other; and I will venture to affirm that it is equally necessary in regard to Great Britain as to the United States. It is well known in respect to the latter, that the passions which were excited by the revolution, did not long survive the struggle; that the sword was no sooner sheathed, than the calamities of the war were forgotten. The injured are always the first to forgive. It is, however, just to remark that time has essentially effaced, from the people of both nations, the hostile impression which that arduous conflict produced.

The 23d article was thought to contain an useful stipulation by securing to the United States the advantages in navigation and commerce, which Great Britain might afterwards grant to any other nation. That stipulation was obviously founded on the right of the most favoured

nation, and subject of course to the conditions incident to it. It amounts to this, that if Great Britain should concede any accommodation to another power in commerce with her East or West India colonies, or any other part of her dominions, gratuitously, the United States would be entitled to it on the same terms; but if she made such accommodation, in consideration of certain equivalents to be given her in return, that the United States would not be entitled to those advantages without paying the equivalents. The doctrine is the same in its application to the United States. If they could grant any privileges in trade to France or Spain for admission into their West India colonies, Great Britain would be entitled to the same, provided she admitted the United States into her islands also, and not otherwise. I could not perceive therefore how it was possible that the United States should be injured by the stipulation contained in this article; while it was probable that they might derive some advantage from it. It could not restrain them from passing a navigation act to place them on an equal footing with Great Britain, especially if it was made general, or applied only to her and the other nations having such acts. The right to pass such an act was not taken away by any other stipulation in the treaty, and there was nothing in this article that had such a tendency. The terms "*shall continue* to be on the footing of the most favoured nation, &c." refer to the principles established by the preceding articles, and not to the existing laws or regulations of either party. If the latter was the case, it would follow, that the tonnage duties, the discriminating duties, &c. would remain as they were. The preceding articles were intended, in the points to which they extended, to establish a standard of equality between the parties, to which the regulations of each, whether they exceeded or fell short of it, should be brought. It could not be doubted that the British export duty was of the first description, that it violated the principle of the most favoured nation. The British commissioners admitted the fact, and did not pretend to justify it on that ground.

They urged in its favour only, that the same duty was imposed on exports to their own colonies in America, and that if any change was made in it, to satisfy the claim of the United States on the principle of the right of the most favoured nation, it would be to raise it on the goods exported to other countries, not to reduce it on those sent to the United States. The principle, however, established by this article, being applicable to that duty, it was to be presumed that it might fairly be relied on to obtain a modification of it, either by reducing the duty on exports to the United States, or raising it on those to other nations. There is nothing in this article to restrain the United States from adopting measures to counteract the British policy with respect to the West Indies. If that object had not been secured by a special article, from the possibility of being affected by the others, the principle established by the present one could not have affected it, otherwise than beneficially.

Having replied to your objections to the several articles of the treaty, and the papers connected with it, and given our view of them, I shall proceed to make some remarks on the whole subject to do justice to the conduct of the American commissioners in that transaction.

In every case which involved a question of neutral right, or even of commercial accommodation, Great Britain was resolved to yield no ground which she could avoid, and was evidently prepared to hazard war, rather than yield much. There seemed to be no mode of compelling her to yield, than that of embarking in the war with the opposite belligerent, on which great question it belonged to the national councils to decide. We had pressed the claims of the United States in the negotiation, to the utmost limit that we could go, without provoking that issue. It is most certain that better terms could not have been obtained at the time we signed the treaty than it contains.

The state of the war in Europe suggested likewise the propriety of caution on our part. Russia was then on the side of England, and likely to continue so ; and Austria,

known to be in the same interest, was holding an equivocal attitude, and ready to take advantage of any favourable event that might occur. Prussia, lately powerful, had been defeated, but was not absolutely subdued; her king, the ally and friend of Alexander, kept the field with him, and made head against France. The emperor of France, far removed from his dominions, was making the bold and dangerous experiment, of the effect which his absence might produce in the interior, and in a situation to be compelled to risk every thing, if pressed by his adversary, on the precarious issue of a single battle. These were strong reasons why we should not throw ourselves too decisively into that scale.

The situation of the United States, always a respectable one, was then less imposing than it usually was. It was known that they were not on good terms with Spain, and that France was the ally of Spain. Their interior too, was disturbed by a conspiracy of doubtful extent and dangerous tendency, the consequences of which were sure to be greatly magnified by all who were unfriendly to our happy system of government. Those circumstances could not fail to be taken into view, by any the most friendly administration in England, when pressed to make concessions which it was unwilling to make. Add to these considerations, the important one, that the British ministry had become much impaired in its strength, especially in what concerned the United States, by the death of a very eminent and distinguished statesman, and had not the power, or thought that it had not, to pursue a liberal policy towards the United States, and that its power was evidently daily diminishing.

These considerations induced us to sign the treaty, and submit it to the wisdom of our government, after obtaining the best conditions that it was possible to obtain. We were aware that, in several points, it fell short of the just claims of our country. But we were persuaded that such an arrangement was made of the whole subject as justified us in the part which we took. In the rejection or adoption of

the treaty, I felt no personal interest. Having discharged my duty with integrity and zeal, I neither wished applause nor dreaded censure. Having the highest confidence in the wisdom, the rectitude and patriotism of the administration, I was satisfied that it would pursue the course, which an enlightened view of the publick interest, and a just sensibility to the national honour, might dictate.

Our letter of January 3d, was written in haste, and was deficient in many of the explanations which would otherwise have been given of the treaty. I was happy when at Washington to find that you were perfectly willing to receive any explanations which I might now be disposed to give of that transaction, and to allow them the weight which they might deserve. In making this communication I have indulged the freedom which belonged to it, in full confidence that it would be approved.

I cannot conclude this letter without adding my most ardent wish, that the administration may succeed in conducting our affairs with every power, to the happiest result. My retirement, which had been long desired, and delayed only by the arduous and very important duties in which I was engaged, had become necessary as a relief to my mind, after much fatigue, and to the interest of my family, which had been neglected and greatly injured by my absence in the publick service. It is still my desire to cherish retirement. Should it, however, be our unfortunate destiny, which I most earnestly hope will not be the case, to be involved in foreign war or domestick trouble, and should my services be deemed useful, I will not hesitate, at the desire of the administration, to repair again to the standard of my country.

I have the honour to be, with great consideration and esteem, your very obedient servant,

JAMES MONROE.

Extract of a Letter to Mr. Monroe from General Armstrong.

PARIS, JULY 7, 1807.

SIR,

"THE accounts you have had of recent captures made by French privateers of American vessels, under cover of the decree of November last, are not correct ; at least, if such captures have been made, I know nothing of them. The only captures I have at any time heard of, were those made from Porto Ferrago. They are by no means of recent date, and have all, I believe, been redressed by the council of prizes. Two of these cases, to which I attended personally, received decisions equally favourable and prompt. Interest and damages were given to the plaintiffs, and I know not why decisions, equally favourable, should not have been given in the other cases. I have, within a week, been informed by Mr. Erving, that he had reason to believe that a French privateer, then in a port of Spain, had plundered American ships, either going to or coming from England, of dry goods, to the amount of \$800. Before any thing could be done in Spain for the recovery of these goods, the ship went to sea, and professedly for the purpose of returning to the port of her armament. Believing her to have arrived there, I put all the evidence I possessed before M. Decres, who closes his answer with the following assurance : * " Your excellency may be assured, that as far as it depends on me, the captains of these vessels, or their owners, shall obtain, if there is ground for it, a prompt and full reparation." I quote this to show you that there is no disposition in the ministers of this government to sanction or protect such enterprises upon our commerce. From the uses you may be able to make of the facts, and their relation to your question generally, I subjoin a brief exposition of the construction now given

* V. E. peut etre assuree qu'il ne tiendra pas a moi que les capitaines de ces navires ou leurs proprietaires n'obtiennent s'il y a lieu une reparation prompte et pleine.

to the November decree. It was, you know, admitted by both ministerial and judicial authorities, that this decree did not infract the provisions of the treaty of 1800 between the United States and France. Still it was contended that vessels (of the United States) coming from any port of Great Britain *since* the date of the edict, could not be admitted to entry in the ports of France. This rule, without some qualifications, was likely to become mischievous, and I accordingly obtained the following modifications of it, and hope to obtain a further modification, which will render it perfectly harmless. These changes took place as circumstances rose to produce them; for though the necessity for them was both foreseen and represented, it was only upon real, not upon hypothetical cases, that the ministers of his majesty were willing to act.

1. Vessels leaving ports of the United States before a knowledge of the arret had been promulgated *there*, are not subject to the rule.

2. Vessels not coming *directly* from a British to a French port, are not subject to the rule.

3. The cargoes of vessels coming *directly* from a British to a French port, and offered for entry, on proof that the touching of the ship in England, &c. was involuntary, are put in depot or sequestration, until his majesty shall have decided on the sufficiency of the proof offered; or they are at once given up to the consignees, on their giving security to abide the decision which shall be ultimately taken by the emperor in their respective cases. The *vessels* can go out freely, and without impediment of any kind. The former rule, of which this is an amelioration, was, that *ships*, as well as *cargoes*, coming under this description, should be sequestered, &c. The farther alteration which I have asked is, the establishment of some principle which shall regulate the kind and degree of proof required with respect to the alleged application of a force majeure, &c. My own opinion is, that this may best be found in the greater or less correspondence which shall exist between the cargo when shipped in America, and when arrived here.

If the correspondence be complete, the evidence ought to be considered as complete also, *that they were not in Great Britain for the purposes of commerce*, and not being there for *these* purposes, the inference is fair, that their going there at all was involuntary. This is a rule the ministers will consent to: whether his majesty will do so also, will be known in a few days. He is expected here about the beginning of August."

PARIS, LE 18 SEPTEMBRE, 1807.

J'AI soumis à sa majesté l'empereur et roi, monsieur, les doutes que s'était formé s. E. le ministre de la marine et des colonies, sur l'entendue de quelques dispositions du décret impérial du 21 Novembre, 1806, qui a déclaré les isles Britanniques en état de blocus; voici quelles sont les intentions de sa majesté sur les points qui avaient mis en question.

1. Les bâtimens armés en guerre peuvent-ils en vertu du décret impérial du 21 Novembre dernier, *saisir sur les bâtimens neutres*, soit les propriétés Anglaises, soit même toutes marchandises provenant de manufactures ou du territoire Anglais?

Sa majesté m'a fait connaitre, que, puis qu'elle avait jugé à propos de n'exprimer aucune exception dans son décret, il n'y avait pas lieu d'en faire dans l'exécution à l'égard de qui que ce pût être.

2. Sa majesté a sursis à statuer sur la question de savoir si les armemens Français doivent s'emparer des bâtimens neutres qui vont en Angleterre, ou qui en sortent, lors même qu'ils n'ont point à bord de marchandises Anglaises.

3. Sur la troisieme question, qui était de savoir si les armemens Français sont possible de la retenue ordonnée par l'article 6, du décret du 21 Novembre, sa majesté a déclaré que la disposition de cet article n'était susceptible d'aucune restriction, c'est à dire, que la retenue doit avoir lieu sur le produit de toutes les confiscations de marchandises et propriétés qui ont été ou pourroient être prononcées en exécution du décret, sans égard au lieu de la saisie ou à la qualité des saisisans.

Vous voudrez bien, monsieur, notifier ces décisions au conseil des prises, les faire consigner sur les registres et m'assurer la réception de ma lettre.

Recevez, &c. &c.

Le gd. juge min. de la justice.

(Signé)

REGNIER.

Procureur general imperial conseil des prises.

PARIS, SEPTEMBER 18, 1807.

I HAVE submitted, sir, to his majesty the emperor and king, the doubts of his excellency the minister of marine and colonies, on the extent of some of the provisions of the imperial decree of November 21, 1806, which has declared the British islands in a state of blockade. The following are the intentions of his majesty, on the points in question.

1. Can armed vessels under the imperial decree of the 21st of November last, seize in neutral vessels, either English property, or merchandise proceeding from the manufactures of the English territories?

His majesty notifies me, that since he had not thought proper to express any exception in his decree, there is no ground to make any in the execution, with respect to any thing whatsoever.

2. His majesty has not decided the question whether French armed vessels may possess themselves of neutral vessels going to or from England, although they have no English merchandise on board.

3. On the question, whether French armed vessels are subject to the deduction ordered by the sixth article of the decree of November 21, his majesty has declared that the provision of that article was not susceptible of any restriction; that is to say, that the deduction must take effect on the proceeds of all confiscations of merchandise and property, which have been or may be pronounced in execution of the decree, without regard to the place of seizure or character of the captors.

You will be so good, sir, as to notify these decisions to

the council of prizes, to have them entered in the registers, and to acknowledge the receipt of my letter.

Accept, &c. &c.

The grand judge minister of justice.

(Signed)

REGNIER.

*Procureur general imperial of
the council of prizes.*

PARIS, AUGUST 9, 1807.

SIR,

YOUR excellency is not unapprized that, soon after the promulgation of the imperial decree of the 31st of November last, one of similar character and injunctions was issued by the prince of peace, in behalf of his catholic majesty. Under this order, sundry vessels belonging to the citizens of the United States have been captured on the high seas, brought into the ports of Spain, and are now before the court of admiralty for examination. To this brief statement, I subjoin an extract from a letter of the 27th ultimo, from the charge des affaires of the United States at Madrid, which will show your excellency, that the fate of these vessels will depend, not on the construction which might be given to the Spanish decree, by the Spanish tribunals, but on the practice which shall have been established by France under her decree of November last; and that Prince Masserano has accordingly been directed to ask from your excellency such exposition of that decree, and of the practice under it, as shall regulate, on this head, the conduct of Spanish courts and cruisers towards neutral commerce in general. Assured as I feel myself, that this exposition, whenever given, will not be less friendly and liberal, than that already found in the decisions of his imperial majesty's council of prizes and correspondence of his minister of marine, viz. that the provisions of the decree in question do not infract any of the rights of commerce, stipulated by treaty between France and the United States, it is incumbent on me to pray your excellency that it (the exposition required) be

given as expeditiously as possible, to the end that the legitimate commerce of the United States be relieved from all farther annoyance, growing out of the doubtful meaning and operation of the Spanish decree aforesaid.

Your excellency will permit me to avail myself of this occasion to recall to your attention the subject of my letter of the 26th of June last. I learn from Antwerp, that the cargoes mentioned in that letter are yet under sequestration, and that considerable loss, as well by diminution of price in the articles, as by accumulation of interest and charges, has been already incurred.

Your excellency will do me the honour to accept the assurances of my profound respect,

(Signed)

JOHN ARMSTRONG.

His Excellency the PRINCE OF BENEVENTO.

PARIS, SEPT. 24, 1807.

SIR,

I HAVE this moment learned that a new and extended construction, highly injurious to the commerce of the United States, was about to be given to the imperial decree of the 21st of November last. It is therefore incumbent upon me to ask from your excellency an explanation of his majesty's views in relation to this subject, and particularly whether it be his majesty's intention, in any degree, to infract the obligations of the treaty now subsisting between the United States and the French empire?

I pray your excellency, &c. &c. &c.

(Signed)

JOHN ARMSTRONG.

His Excellency the Minister of Foreign Relations.

FONTAINEBLEU, LE 7 OCT. 1807.

MONSIEUR,

Vous m'avez fait l'honneur de m'inviter le 24 Septembre à vous transmettre quelques éclaircissemens sur l'exécution du décret de blocus des isles Britanniques envers les bâtimens des Etats Unis.

Les dispositions de tous les réglémens et de tous les

traités relatives à l'état de blocus, ont paru applicables à la circonstance actuelle, et il résulte des explications qui viennent de m'être adressées par le procureur général impérial près le conseil des prises, que sa majesté a regardé tout bâtiment neutre, sortant des ports Anglais, avec des cargaisons de marchandises Anglaises, ou d'origine Anglaise, comme pouvant être valablement saisi par les bâtimens de guerre Français.

Le décret de blocus est rendu depuis près de onze mois : les principales puissances d'Europe, loin de réclamer contre ses dispositions, les ont adoptées. Elles ont reconnu qu'il fallait en rendre l'exécution complète pour la rendre plus efficace, et il a paru qu'il était facile d'accorder les mesures avec la conservation des traités ; surtout dans un temps où les infractions de l'Angleterre contre les droits de toutes les puissances maritimes, rendent leurs intérêts communs et tendent à les unir pour le soutien de la même cause.

Recevez, monsieur, &c. &c.

(Signé)

CHAMPAGNY.

S. Ex. le Gen. ARMSTRONG,
Min. Plen. des Etats Unis.

FONTAINEBLEAU, OCT. 7, 1807.

SIR,

You did me the honour, on the 24th of September, to request me to send you some explanations as to the execution of the decree of blockade of the British islands, as to vessels of the United States.

The provisions of all the regulations and treaties relative to a state of blockade have appeared applicable to the existing circumstance, and it results from the explanations which have been addressed to me by the imperial procureur general of the council of prizes, that his majesty has considered every neutral vessel, going from English ports, with cargoes of English merchandise, or of English origin, as lawfully seizable by French armed vessels.

The decree of blockade has been now issued eleven

months. The principal powers of Europe, far from protesting against its provisions, have adopted them. They have perceived that its execution must be complete, to render it more effectual, and it has seemed easy to reconcile these measures with the observance of treaties, especially at a time when the infractions, by England, of the rights of all maritime powers, render their interests common, and tend to unite them in support of the same cause.

Accept, &c. &c.

(Signed)

CHAMPAGNY.

His Excellency General ARMSTRONG,

Min. Plen. of the United States.

PARIS, NOV. 1807.

SIR,

It was not till yesterday that I received from Mr. Skipwith a copy of the decree of the council of prizes, in the case of the *Horizon*. This is the first unfriendly decision of that body under the decree of the 21st of November, 1806. In this case, and on the petition of the defendant, the court has recommended the restoration of the *whole* cargo. I did not, however, think proper to join in asking as a favour, what I believed myself entitled to as a right. I subjoin a copy of my note to the minister of foreign affairs. And am, sir, &c.

(Signed)

JOHN ARMSTRONG.

Mr. MADISON, &c.

PARIS, NOV. 12, 1807.

SIR,

THE document to which these observations are prefixed, will inform your excellency that an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering shipwreck on the coast of France, has recently been seized by his majesty's officers, and adjudged by his council of prizes, as follows, viz.

“ Our council puts at liberty the American vessel, the *Horizon*, shipwrecked the 30th of May last, near Morlaix, and consequently orders, that the amount of the sale legal-

ly made of the wreck of the said vessel, together with the merchandise of the cargo, which, according to an estimate made in presence of the overseers of the administrations of the marine and custom house, shall be acknowledged not to proceed either from English manufactures or territory, shall be restored to captain Mac Clure, without deducting any other expenses but those relative to the sale."

"And with regard to the other merchandise of the cargo, which, from the result of the said estimate, shall be acknowledged to come from manufactures or from English territory, by virtue of the 5th article of the decree of the 21st of November, 1806, they shall be confiscated for the use of the state. The whole to be sold by the forms prescribed in the regulations, and the application of the product to be made in conformity to the arrangements of the said decree, deduction being made for the expense of saving the goods, and that of the support of the crew, until the day that the captain shall receive the notification of the present decision."

The reasons, upon which this decision is founded, are at once so new and so alarming to the present friendly relation of the two powers, that I cannot but discuss them with a freedom in some degree proportioned to my sense of their novelty and importance.

"Considering," says the council, "that the neutrality of the ship and cargo were sufficiently established, the whole ought to be restored, (agreeably to the provisions of the convention of the 30th September, 1800,) provided no merchandise of English origin had been found in her, and of course, that she had not been brought within the limits of the imperial decree of the 21st of November, 1806."

Here is an open and unqualified admission that the ship was found within the rules prescribed by the convention of 1800; that according to these rules, her cargo and herself ought to have been restored; and that such would have been the fact, but for the operation of the decree of the 21st of November, 1806.

In the letter your excellency did me the honour to write

me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation was to be effected. They no doubt fully existed, and yet exist, in his majesty's good pleasure; and taking for granted this fact, I saw in the opinion nothing but proofs of a friendly disposition, and pledges that this was not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority and the consolation derived from it, is this recent act of the council of prizes, an act which explicitly acknowledges the opposite characters and conflicting injunctions of these two instruments, and which of course draws after it considerations the most serious to the government of the United States.

The second reason of the council is, "That the decree declaring British merchandise good prize, had principally in view captures made on the high seas, but that the question, whether shipwrecked goods ought to be restored or confiscated, having always been judged under the 14th article of the regulation of the 26th of July, 1778, and according to their character (that might have rendered lawful, or have even commanded their seizure at sea) there is no room to introduce in this case any new distinction which, however philanthropic it may appear, has not as yet been adopted as a rule by any maritime nation."

The doctrine resisted in this passage, and which inculcates the duty of extending protection to the unfortunate, is not new to his majesty's council of prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision, they restored an enemy's ship,* on the *single reason*, that she had been *compelled* to enter a *French port by stress of weather*. "I should equally fail," says the attorney general, "in respect to myself, and to the council, before whom I have the honour to represent the government, were I not to maintain a principle, consecrated by our laws, and by those of all na-

* The Diana.

tions. In all circumstances, let the loyalty of the French government serve as the basis of your decisions. Prove yourselves at once generous and just; your enemies will know and respect your magnanimity." Such was the principle adopted by the council in the year 1800, and in the case of an enemy's ship. Yet, we are now told, that this very principle, so honourable to the court, to the nation, and to human nature, is utterly unknown to all maritime people; and on what occasion do we hear this? When an enemy's ship is again thrown on the French coast? No: it has been reserved for the wreck of a neutral and a friendly vessel! for a ship of the United States. It is not denied, that had this ship escaped the rocks, and made the port of Morlaix, the only inhospitality to which she would have been exposed, (under the most rigorous interpretation of the law in question) would have been that of being ordered again to sea. Has then the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also? and is this among the principles which the defender of maritime rights means to consecrate by his power and his wisdom? It is impossible.

The third reason of the council is, "That the application of the fifth article aforesaid, in as far as it concerns the Americans and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his excellency the grand judge, concerning the primitive intention of the sovereign, that the expedition in question, having certainly been undertaken with full knowledge of the said decree, no objection can be drawn with any propriety from the general rules forbidding a retrospective action, nor even in this particular case, from the posterior date of the act in which the sovereign decides the question, since that act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an antierior and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point, and the declaration of an

antérieur and positive rule. This distinction cannot be maintained; for if the rule had been positive, there would have been no occasion for the declaration; neither the minister of marine nor the council of prizes could have had any doubts on the subject; the execution of the decree would have been prompt and peremptory, nor would a second act on the part of his majesty, after the lapse of twelve months, have been necessary to give operation to the first. Need I appeal to your excellency's memory for the facts on which these remarks turn? You know that doubts did exist; you know that there was under them even much hesitation in pronouncing; you know that as late as the 9th of August, I sought an explanation of the decree in question, and that even then your excellency (who was surely a competent and legitimate organ of his majesty) did not think yourself prepared to give it. The conclusion is inevitable; his majesty's answer transmitted to the court of Paris, on the 18th of September following, through the medium of the grand judge, was in the nature of an *interpretation*, and being so, could not without possessing a retroactive quality, apply to events many months anterior in date to itself.

The 4th reason of the council, and the last which enters into my present view of the subject, is,—“That though one of the principal agents of his majesty had given a contrary opinion, *of which the council had at no period partaken*, this opinion being that of an *individual*, could not (whatever consideration its author may merit,) balance the formal declaration given in the name of his majesty himself, and that if the communication of this opinion had, as is alleged, given room to and served as a basis for many American shipments, and particularly of the one in question, this circumstance, which may call for the indulgence of his majesty, in a case in which the confiscation is entirely to the advantage of the state, does not prevent a council, rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which followed it.”

It would appear from this paragraph, that, not finding it easy to untie the knot, the council had determined to cut it. Pressed by the fact, that an interpretation of the decree had been given by a *minister of his majesty, specially charged* with its execution, they would now escape from this fact, and from the conclusions to which it evidently leads, by alleging,

1st. That at no time had the council partaken of the opinion given by the minister; and

2d. That this opinion, being that of an *individual*, could not possess either the force or the authority of one truly ministerial.

It appears to me, as I think it will to your excellency, that the council have, in these statements, been less correct than is usual to them on similar occasions, if, as they now assert, they have never partaken of the minister's opinion. If they have never even hesitated on the question, whether the decree of November did, or did not derogate from the treaty of 1800. Why, I ask, suspend the American cases generally? Or why decide as they did in the case of the *Hibernia*? If I mistake not we find in this case the recognition of the very principle laid down by the minister of marine; that officer says, "In my opinion the November decree does not work any change in the rules at present observed with respect to neutral commerce, and consequently none in the convention of the 8th Vendemiaire, year 9." And what says the council? "*Admitting* that this part of the cargo (the rum and ginger) was of *British origin*, the dispositions of the November decree, *which contain nothing with regard to their own influence over the convention of the 8th Vendemiaire, year 9, evidently cannot be applied to a ship leaving America on the 6th of the same month of November, and of course cannot have authorized her capture in the moment she was entering the neutral port of her destination.*" We have here three distinct grounds of exemption from the effects of the November decree.

1st. The entire silence of that decree with regard to its own influence over the convention of 1800.

2d. The early period at which the ship left the United States, and

3d. The neutral character of the port to which she was destined. If such, sir, were the principles admitted by the council of the 25th March last, with what correctness can it be now said "that at no period have they partaken of the opinion of the minister?"

The second fact asserted by the council is, that the interpretation of the decree in question, given on the 24th of December, 1806, was *private*, not *publick*, or in other words, that it was the interpretation of the *man*, not that of the *minister*, and as such cannot outweigh the more recent declaration coming directly from his majesty himself. On the comparative weight of these declarations I shall say nothing, nor shall I do more to repel the first part of the insinuation (*that the minister's declaration was that only of the individual*) than to submit to your excellency my letter of the 20th of December, 1806, claiming from that minister an *official* interpretation of the decree in question, and his answer of the 24th of the same month, giving to me the interpretation demanded.

To your excellency, who, as late as the 21st of August last, considered the minister of marine as the natural organ of his majesty's will, in whatever regarded the decree aforesaid, and who actually applied to him for information relating to it, this allegation of the council of prizes, and the reasoning founded upon it, cannot but appear very extraordinary, and will justify me in requesting that his majesty may be moved to set aside the decision in question. I beg, &c. &c.

J. ARMSTRONG.

His Excellency the Minister of Foreign Relations.

Letter from the minister of foreign relations of the 21st of August, 1807, referred to in the preceding page.

MONSIEUR,

J'AI reçu la lettre que vous m'avez fait l'honneur de m'adresser le 9 de ce mois relativement à des bâtimens

Américains conduits dans les ports d'Espagne par suite des dispositions que cette puissance a prises contre le commerce Anglais, à l'exemple de la France.

Comme l'exécution des mesures maritimes indiquées par le décret impérial du 21 Novembre, 1806, appartient naturellement à son excellence le ministre de la marine et que d'ailleurs il a déjà en l'honneur des vous adresser de premières observations sur l'application de ce décret, je me suis empressé de lui transmettre votre lettre, et de lui demander les nouvelles explications que vous pouvez désirer. Des qu'elles m'aurent été adressées, j'aurai l'honneur de vous en donner connaissance.

Agréez, M. l'assurance de ma haute considération.

(Signé)

CHAMPAGNY.

Son Ex. le Gen. ARMSTRONG.

SIR,

I HAVE received the letter which you did me the honour of addressing me on the 9th of this month, relative to American vessels carried into ports of Spain, in consequence of the measures taken by that power against the English commerce in imitation of France.

As the execution of the maritime measures indicated by the imperial decree of the 21st of November, 1806, rests naturally with his excellency the minister of marine, and that moreover, he has already had the honour of addressing you some first observations on the application of that decree, I transmitted, without delay, your letter, and asked from him the new explanations which you might desire. When they shall have been forwarded me, I will have the honour of informing you of them.

Accept the assurance of my high consideration,

(Signed)

CHAMPAGNY.

His Excellency General ARMSTRONG.

IMPERIAL DECREE.

REJOINDER TO HIS BRITANNIC MAJESTY'S ORDER IN
COUNCIL OF NOV. 11, 1807.

AT OUR ROYAL PALACE, AT MILAN, DEC. 17, 1807.

NAPOLÉON, emperor of the French, king of Italy, and protector of the Rhenish confederacy.

Observing the measures adopted by the British government, on the 11th of November last, by which vessels belonging to neutral, friendly, or even powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent. on the cargo, to be regulated by the British legislature.

Observing that by these acts the British government denationalizes ships of every nation in Europe, that it is not competent for any government to detract from its own independence and rights, all the sovereigns of Europe having in trust the sovereignties and independence of the flag; that if by an unpardonable weakness, and which, in the eyes of posterity, would be an indelible stain, such a tyranny was allowed to be established into principles and consecrated by usage, the English would avail themselves of the tolerance of governments to establish the infamous principles, that the flag of a nation does not cover goods, and to give to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every state; we have decreed, and do decree as follows :

ARTICLE I. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or that shall have paid any tax whatsoever to the English government, is thereby, and for that alone, declared to be denationalized, to have forfeited the protection of its king, and to have become English property.

ARTICLE II. Whether the ships thus denationalized by the arbitrary measures of the English government, enter into our ports or those of our allies, or whether they

fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prizes.

ARTICLE III. The British islands are declared to be in a state of blockade, both by sea and land. Every ship, of whatever nation, or whatsoever the nature of its cargo may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree; and may be captured by our ships of war or our privateers, and adjudged to the captor.

ARTICLE IV. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force as long as that government does not return to the principle of the law of nations, which regulates the relations of civilized states in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and of honour.

All our ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.

(Signed)

NAPOLEON.

By order of the emperor.

The Secretary of State,

(Signed)

H. B. MARET.

MESSAGE

TO THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 1, 1808.

IN answer to the inquiries of the resolution of the House of Representatives of the 30th of March, relative to certain dates, I transmit a report of the Secretary of State made to me on that subject. TH: JEFFERSON.

THE Secretary of State has the honour to report to the President, in conformity to the resolution of the House of Representatives of the 30th of March, that the only information which has been received respecting the letter from which the extract inserted in Gen. Armstrong's letter to the Secretary of State of January 22, 1808, was taken, is in the extract itself, to which no date is given; and that no copy of any letter from the French ministry to him is subjoined to, or known to be referred to, in his said letter of January 22d, except that, a copy of which was communicated to Congress by the President on the 29th of March,† and which bears date January 15th, 1808. It does not appear from any information received by the Department of State, at what date, either this letter of January 15th, or the letter from which the inserted extract was taken, were received by the minister of the United States at Paris.

Respectfully submitted. JAMES MADISON.
Department of State, April 1, 1808.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A LETTER FROM M. CHAMPAGNY, AND ANOTHER FROM MR. ERSKINE. APRIL 2, 1808.

BELIEVING that the confidence and union of our fellow citizens, at the present crisis, will be still further confirm-

† No message of 29th March is to be found on the Journals of Congress.

ed by the publication of the letter of M. Champagney, to Gen. Armstrong, and that of Mr. Erskine, to the Secretary of State, communicated with my message* of the 30th ult. and therefore, that it may be useful to except them from the confidential character of the other documents accompanying that message, I leave to the consideration of Congress the expediency of making them publick.

TH: JEFFERSON.

WASHINGTON, FEB. 26, 1806.

SIR,

I HAVE the honour to transmit to you, the copies of certain orders of council, which his majesty has thought proper to issue in consequence of the hostile conduct of France towards the navigation and commerce of Great Britain, and of neutral states.

His majesty has been induced hitherto to forbear recurring to measures of this nature, by the expectation that the governments of the neutral states, who have been the objects of the French decrees, would have been awakened to a just sense of what they owe to their interests and own rights, and would have interposed with effect, either to prevent the execution of the French decrees, or to procure their abrogation.

But his majesty, having been disappointed in this just expectation, and perceiving that the neutral nations, so far from opposing any effectual resistance, have submitted to whatever regulations France may have prescribed for giving effect to her decrees, can no longer refrain from having recourse to such measures, as by retorting on the enemy the inconveniences and evils produced by his injustice and violence, may afford the only remaining chance of putting an end to a system, the perseverance in which is not more injurious to his majesty's dominions, than to nations not parties to the war between Great Britain and France.

The principle upon which his majesty finds himself com-

[* The message of March 30 is not printed in either of the journals, or any where else.]

pelled to proceed, would justify a complete and unqualified retaliation, on his part, of the system announced, and acted upon by France, in respect to his majesty's dominions: and his majesty might therefore have declared in a state of rigorous and unmitigated blockade, all the coasts and colonies of France and her allies. Such a measure, the maritime power of Great Britain would have enabled his majesty to enforce: nor would those nations, which have acquiesced, without effectual remonstrance, in the French decree of blockade, have derived any right from the perfect execution of a corresponding determination on the part of his majesty, to complain of his majesty's enforcing that measure, which the enemy has executed imperfectly, only from the want of the means of execution.

His majesty, however, actuated by the same sentiments of moderation, by which his majesty's conduct has been uniformly governed, has been desirous of alleviating, as much as possible, the inconveniences necessarily brought upon neutral nations, by a state of things so unfavourable to the commercial intercourse of the world; and has therefore anxiously considered what modifications it would be practicable to apply to the principle upon which he is compelled to act, which would not, at the same time that they might afford relief from the pressure of that principle upon neutral or friendly nations, impede or enfeeble its operation upon the enemy.

In pursuance of this desire, the order in council, which, if it had ended with the sixth paragraph, would have been no more than a strict and justifiable retaliation for the French decree of November, 1806, proceeds, as you will observe, sir, to provide many material exceptions, which are calculated to qualify the operation of the order upon neutral nations in general, but which must be considered as most peculiarly favourable to the particular interests of the United States.

It will not escape you, sir, that by this order in council, thus modified and regulated, the direct intercourse of the United States with the colonies of the enemy is unrestrain-

ed; an indulgence which, when it is considered to be (as it really is) not only a mitigation of that principle of just reprisal upon which the order itself is framed, but a deviation in favour of the United States, from that ancient and established principle of maritime law, by which the intercourse with the colonies of an enemy in time of war, is limited to the extent which that enemy was accustomed in time of peace to prescribe for it, and which, by reference to the conduct of France in a time of peace, would amount to a complete interdiction, cannot fail to afford to the American government a proof of the amicable disposition of his majesty towards the United States.

You will observe sir, also, that the transportation of the colonial produce of the enemy from the United States to Europe, instead of being altogether prohibited (which would have been the natural retaliation for the rigorous and universal prohibition of British produce and manufactures by France,) is freely permitted to the ports of Great Britain, with the power of subsequently re-exporting it to any part of Europe, under certain regulations.

The object of these regulations will be the establishment of such a protecting duty, as shall prevent the enemy from obtaining the produce of his own colonies at a cheaper rate than that of the colonies of Great Britain.—In this duty, it is evident that America is no otherwise concerned, than as being to make an advance to that amount for which it is in her own power amply to indemnify herself at the expense of the foreign consumer.

Another most important relaxation of the principles upon which his majesty's orders proceed, is that which licenses the importation of all flour and meal, and all grains, tobacco and other articles, the produce of the soil of America, with the exception of cotton, through the ports of his majesty's dominions, into those of his enemies, without the payment of any duty on the transit. This is, I beg leave to observe, an instance in which his majesty has deprived his measure of its most efficacious and hurtful operation against the enemy, through motives of con-

sideration for the interests of America. The reason why his majesty could not feel himself at liberty, consistent with what was necessary for the execution of his purpose, in any tolerable degree, to allow this relaxation to apply to cotton, is to be found in the great extent to which France has pushed the manufacture of that article, and the consequent embarrassment upon her trade, which a heavy impost upon cotton, as it passes through Great Britain to France, must necessarily produce.

I cannot refrain from calling the attention of the government of the United States, to the contrast between the different modes in which his majesty's orders and those of France are carried into execution. By his majesty's, the utmost consideration is manifested for the interests of those nations whose commerce he is reluctantly compelled to impede, and ample time allowed for their becoming acquainted with the new regulations, and conforming to them.—Whereas France, without any previous notice, and without any interval, applies her orders to trade already entered upon in ignorance of any such orders, and subjects to condemnation ships, whose voyages, when commenced, were in strict conformity to all the regulations at that time promulgated by France.

Even with these and other modifications, his majesty is not unaware that a measure extorted from him by the injustice of the enemy, must inevitably produce inconveniences to the neutral parties who are affected by its operation.

The right of his majesty to resort to retaliation, cannot be questioned. The suffering occasioned to neutral parties is incidental, and not of his majesty's seeking.

In the exercise of this undoubted right, his majesty has studiously endeavoured to avoid aggravating unnecessarily the inconveniences suffered by the neutral. And I am commanded by his majesty, especially, to represent to the government of the United States, the earnest desire of his majesty, to see the commerce of the world restored once more to that freedom which is necessary for its prosperity;

and his readiness to abandon the system which has been forced upon him, whenever the enemy shall retract the principles which have rendered it necessary; but his majesty entertains the conviction, upon which alone his present measures are founded, that it would be vain to hope for such a retraction, until the enemy shall himself have been made to feel a portion of the evils which he has endeavoured to inflict upon others.

I have the honour to be, &c.

D. M. ERSKINE.

Hon. JAMES MADISON, *Secretary of State.*

Translation of a Letter from M. Champagny to General Armstrong, dated Paris, Jan. 15, 1808.

SIR,

THE different notes which you have done me the honour to address to me, have been laid before his majesty.

The proceedings of England towards all governments are so contrary to the law of nations, and to all the rules constantly observed, even among enemies, that no recourse against this power is any longer to be found in the ordinary means of repression. In order to annoy her, it is become necessary to turn against her the arms which she makes use of herself; and if transient inconveniences result therefrom, it is to her alone they are to be imputed. Since England respects no laws, how could they be respected with regard to her? The maritime laws which she violates, ought they still to be a protection to her? And if some powers tolerate the infractions committed on their independence, could they have the right to require, that France alone should restrain herself within limits which her enemy has every where overleaped?

The United States, more than any other power, have to complain of the aggressions of England. It has not been enough for her to offend against the independence of her flag, nay, against that of their territory, and of their inhabitants, by attacking them even in their ports, by forcibly carrying away their crews; her decrees of the 11th November have made a fresh attack on their commerce, and

on their navigation, as they have done on those of all other powers.

In the situation in which England has placed the continent, especially since her decrees of the 11th of November, his majesty has no doubt of a declaration of war against her by the United States. Whatever transient sacrifices war may occasion, they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle, and the anarchy which that government wishes to establish on the seas. If it be useful and honourable for all nations to cause the true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of those violations. War exists, then, in fact, between England and the United States; and his majesty considers it as declared from the day on which England published her decrees. In that persuasion, his majesty, ready to consider the United States as associated with the cause of all the powers, who have to defend themselves against England, has not taken any definitive measure towards the American vessels which may have been brought into our ports. He has ordered that they should remain sequestered, until a decision may be had thereon, according to the dispositions which shall have been expressed by the government of the United States.

REPORT

OF THE COMMITTEE TO WHOM WAS REFERRED THE CORRESPONDENCE BETWEEN MR. MONROE AND MR. CANNING, &c. &c. &c. IN SENATE, APRIL 16, 1808.

MR. ANDERSON, from the committee to whom was referred, on the 4th instant, the correspondence between Mr. Monroe and Mr. Canning, and between Mr. Madison and

Mr. Rose, relative to the attack made upon the frigate *Chesapeake*, by the British ship of war *Leopard*; and also the communications made to the Senate, by the President of the United States, on the 30th day of March last, containing a letter from Mr. Erskine to the secretary of state, and a letter from M. Champagny to general Armstrong, reported:—

That on a review of the several orders, decrees, and decisions of Great Britain and France, within the period of the existing war, it appears, that previous to the measures referred to in the letters from Mr. Erskine to the secretary of state, and from M. Champagny to general Armstrong, various and heavy injuries have been committed against the neutral commerce and navigation of the United States, under the following heads:

1st. The British order of June, 1803, unlawfully restricting the trade of the United States, with a certain portion of the unblockaded ports of her enemies, and condemning vessels with innocent cargoes, on a return from ports where they had deposited contraband articles.

2d. The capture and condemnation, in the British courts of admiralty, of American property, on a pretended principle, debarring neutral nations from a trade with the enemies of Great Britain, interdicted in time of peace. The injuries suffered by the citizens of the United States, on this head, arose, not from any publick order of the British council, but from a variation in the principle, upon which the courts of admiralty pronounced their decisions. These decisions have indeed again varied, without any new orders of council being issued; and in the higher courts of admiralty, some of the decisions which had formed the greatest cause for complaint, have been reversed, and the property restored. There still remains, however, a heavy claim of indemnity for confiscations, which were made during the period of these unwarrantable decisions, and for which all negotiation has hitherto proved unavailing.

3d. Blockades notified to the minister of the United States at London, and thence made a ground of capture,

against the trade of the United States, in entire disregard of the law of nations, and even of the definition of legal blockades, laid down by the British government itself. Examples of these illegitimate blockades will be found in the notifications of the blockade of May 16th, 1806, of the coast from the river Elbe to Brest inclusive—blockade of 11th May, 1807, expounded 19th June, 1807, of the Elbe, Weser, and Ems, and the coast between the same—blockade 11th May, 1807, of the Dardanelles and Smyrna—blockade of 8th January, 1808, of Carthage, Cadiz, and St. Lucar, and of all the intermediate ports between Carthage and St. Lucar, comprehending a much greater extent of coast than the whole British navy could blockade, according to the established law of nations.

4th. To these injuries immediately authorized by the British government, might be added other spurious blockades by British naval commanders, particularly that of the island of Curacao, which for a very considerable period, was made a pretext for very extensive spoliation on the commerce of the United States.

5th. The British proclamation of October last, which makes it the duty of the British officers to impress from American merchant vessels, all such of their crews as might be taken or mistaken for British subjects—those officers being the sole and absolute judges in the case.

For the decrees and acts of the French government, violating the maritime law of nations, in respect to the United States, the committee refer to the instances contained in the report of the secretary of state, January 25th, 1806, to the Senate, in one of which, viz. a decree of the French general Ferrand, at St. Domingo, are regulations sensibly affecting the neutral and commercial rights of the United States.

The French act next in order of time is the decree of November 21, 1806—declaring the British isles in a state of blockade, and professing to be a retaliation, on antecedent proceedings of Great Britain, violating the law of nations.

This decree was followed, first by the British order of January, 1807, professing to be a retaliation on that decree, and subjecting to capture the trade of the United States, from the port of one belligerent, to a port of another; and secondly, by the orders of November last, professing to be a further retaliation on the same decree, and prohibiting the commerce of neutrals, with the enemies of Great Britain, as explained in the aforesaid letter of Mr. Erskine.

These last British orders again, have been followed by the French decree of December 17th, purporting to be a retaliation on the said orders, and to be put in force against the commerce of the United States, as stated in the aforesaid letter of M. Champagny.

The committee forbear to enter into a comparative view of these proceedings, of the different belligerent powers, deeming it sufficient to present the materials, from which it may be formed. They think it their duty, nevertheless, to offer the following remarks, suggested by a collective view of the whole.

The injury and dangers resulting to the commerce of the United States, from the cause and increase of these belligerent measures, and from similar ones adopted by other nations, were such as first to induce the more circumspect of our merchants and ship owners, no longer to commit their property to the high seas, and at length to impose on Congress the indispensable duty of interposing some legislative provision, for such an unexampled state of things.

Among other expedients out of which a choice was to be made, may be reckoned—

- 1st. A protection of commerce by ships of war.
- 2d. A protection of it by self armed vessels.
- 3d. A war of offence as well as of defence.
- 4th. A general suspension of foreign commerce.
- 5th. An embargo on our vessels, mariners and merchandise.

This last was adopted, and the policy of it was enforced,

at the particular moment, by accounts quickly after confirmed, of the British orders of November, and by the probability that these would be followed, as has also happened, by an invigorated spirit of retaliation, in other belligerent powers. The happy effect of the precaution is demonstrated by the well-known fact, that the ports of Europe are crowded with captured vessels of the United States, unfortunately not within the reach of the precaution.

With respect to a protection of our commerce by ships of war, it must be obviously impracticable, in any material degree, without a lapse of time, and an expense which amounts to a prohibition of that resort; besides that it would necessarily involve hostile collisions with one or more of the belligerent powers.

Self-armed merchantmen would have the same tendency, at the same time, that they would be utterly inadequate to a security against the multiplied fleets and cruisers to be encountered.

An entire suspension of foreign commerce, as the resort in the first instance, would evidently have produced some inconveniences, not incident to the embargo, as it was modified. But the committee do not suppress their opinion, that after a reasonable time, it may not improperly take the place of the embargo; in case of a protracted adherence of the belligerent powers, to their destructive proceedings against our neutral commerce.

With respect to a resort to war, as a remedy for the evils experienced, the committee will offer no other reflection, than that it is in itself so great an evil, that the United States have wisely considered peace and honest neutrality, as the best foundation of their general policy. It is not for the committee to say under what degree of aggravated injuries, and sufferings, a departure from this policy may become a duty; and the most pacific nation find itself compelled to exchange for the calamities of war, the greater distresses of longer forbearance.

In the present state of things, the committee cannot recommend any departure from that policy which withholds

our commercial and agricultural property, from the Hooded depredations of the great maritime belligerent powers. They hope that an adherence to this policy will eventually secure to us the blessings of peace, without any sacrifice of our national rights; and they have no doubt that it will be supported by all the manly virtue, which the good people of the United States have ever discovered, on great and patriotic occasions. But the committee would suggest, on this subject, that better councils in the belligerent governments, producing a juster conduct towards neutral nations, would render a continuance of the embargo unnecessary, and that it will be a provident measure to vest in the executive a power, in such an event, to suspend until the next session of Congress, wholly, or in part, the several acts prohibiting the departure of our vessels for foreign ports.

Although the committee have abstained from entering into any particular comparison, of the proceedings of the French and British governments, towards the United States; they cannot reconcile with their duty, or with the just sensibility of the nation, not to advert to the tenour and language of the late communications, made by the respective organs of those governments.

In the letter of M. Champagny, the United States are not only threatened with confiscation, as the final destiny of American property, seized under French decrees, unless disposition shall be manifested by them against Great Britain, satisfactory to France, but they are even declared, without reserve of any sort, to be actually in a state of war against Great Britain.

In the letter of Mr. Erskine to the secretary of state, the United States are explicitly charged with justly subjecting their commerce to confiscations under the British orders, by not opposing an effectual resistance against the decrees of France; in other words, by not making war against that nation, in case no other interposition should be effectual.

There are in this exposition of the British orders, certain features, which claim particular attention; among the

regulations of which they consist, it is provided, that the commerce of the United States, bound from their own ports to its legal and ordinary markets, shall pass through British ports, shall there, in all cases, take their clearances from British officers, shall, in some cases, obtain special licenses, and in others, pay a direct and avowed tax; thus putting the U. States on a commercial footing, even worse than was allowed to British colonies—which were left free to carry their exports directly to foreign markets, in cases where an intermediate voyage to the parent country would be too oppressive. In the present case, not a single article is permitted to be sent from the United States to the most southern parts of Europe, without a previous voyage to Great Britain, and in some instances, not without purchasing even that privilege, without paying a tribute to the British treasury.

The committee have taken into consideration the documents relating to the attack on the frigate *Chesapeake*; but they have not deemed it their duty, in the actual posture of that subject, to make any other remark, than that it strengthens the motives for persevering in all the provisional and precautionary measures hitherto contemplated.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO BOTH HOUSES OF CONGRESS, AT THE COMMENCEMENT OF THE SECOND SESSION OF THE TENTH CONGRESS, NOV. 8, 1808.

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE U. STATES.

It would have been a source, fellow citizens, of much gratification, if our last communications from Europe had enabled me to inform you, that the belligerent nations, whose disregard of neutral rights has been so destructive to our commerce, had become awakened to the duty and true policy of revoking their unrighteous edicts. That no means might be omitted to produce this salutary effect, I

lost no time in availing myself of the act authorising a suspension, in whole or in part, of the several embargo laws. Our ministers at London and Paris were instructed to explain to the respective governments there, our disposition to exercise the authority in such manner as would withdraw the pretext on which the aggressions were originally founded, and open the way for a renewal of that commercial intercourse which it was alleged on all sides had been reluctantly obstructed. As each of these governments had pledged its readiness to concur in renouncing a measure which reached its adversary through the incontestable rights of neutrals only, and as the measure had been assumed by each as a retaliation for an asserted acquiescence in the aggressions of the other, it was reasonably expected that the occasion would have been seized by both for evincing the sincerity of their professions, and for restoring to the commerce of the United States its legitimate freedom. The instructions to our ministers, with respect to the different belligerents, were necessarily modified with a reference to their different circumstances, and to the condition annexed by law to the executive power of suspension, requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge, therefore, for a suspension of the embargo as to her in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between this other and the United States. To Great Britain, whose power on the ocean is so ascendant, it was deemed not inconsistent with that condition, to state explicitly, that on her rescinding her orders in relation to the United States, their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also. From France no answer has been received, nor any indication that the requisite change in her decrees is contemplated. The favourable reception of the proposition to Great Britain was the loss to her

doubted, as her orders of council had not only been referred for their vindication to an acquiescence on the part of the United States, no longer to be pretended, but as the arrangement proposed, whilst it resisted the illegal decrees of France, involved, moreover, substantially, the precise advantages professedly aimed at by the British orders. The arrangement has, nevertheless, been rejected.

This candid and liberal experiment having thus failed, and no other event having occurred on which a suspension of the embargo by the executive was authorized, it necessarily remains in the extent originally given to it. We have the satisfaction, however, to reflect, that in return for the privations imposed by the measure, and which our fellow citizens in general have borne with patriotism, it has had the important effects of saving our mariners, and our vast mercantile property, as well as of affording time for prosecuting the defensive and provisional measures called for by the occasion. It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involved war, if submitted to, sacrificed a vital principle of our national independence.

Under a continuance of the belligerent measures, which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the union, the sentiments of our constituents, my confidence is strengthened, that in forming this decision, they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made. Nor should I do justice to the virtues, which on other occasions have marked the character of our fellow citizens, if I did not cherish an equal confidence, that the alternative chosen, whatever it may be, will be maintained

with all the fortitude and patriotism which the crisis ought to inspire.

The documents, containing the correspondences on the subject of the foreign edicts against our commerce, with the instructions given to our ministers at London and Paris, are now laid before you.

The communications, made to Congress at their last session, explained the posture in which the close of the discussions relative to the attack by a British ship of war on the frigate *Chesapeake* left a subject on which the nation had manifested so honourable a sensibility. Every view of what had passed, authorized a belief that immediate steps would be taken by the British government for redressing a wrong, which, the more it was investigated, appeared the more clearly to require what had not been provided for in the special mission. It is found that no steps have been taken for the purpose. On the contrary, it will be seen in the documents laid before you, that the inadmissible preliminary, which obstructed the adjustment, is still adhered to; and, moreover, that it is now brought into connection with the distinct and irrelative case of the orders in council. The instructions which had been given to our minister at London, with a view to facilitate, if necessary, the reparation claimed by the United States, are included in the documents communicated.

Our relations with the other powers of Europe have undergone no material changes since your last session. The important negotiations with Spain, which had been alternately suspended and resumed, necessarily experience a pause, under the extraordinary and interesting crisis which distinguishes her internal situation.

With the Barbary powers we continue in harmony, with the exception of an unjustifiable proceeding of the dey of Algiers towards our consul to that regency. Its character and circumstances are now laid before you, and will enable you to decide how far it may either now or hereafter call for any measures not within the limits of the executive authority.

With our Indian neighbours the publick peace has been steadily maintained. Some instances of individual wrong have as at other times taken place, but in no wise implicating the will of the nation. Beyond the Mississippi, the Ioways, the Sacs, and the Alibamas, have delivered up for trial and punishment individuals from among themselves, accused of murdering citizens of the United States. On this side of the Mississippi, the Crooks are exerting themselves to arrest offenders of the same kind, and the Choctaws have manifested their readiness and desire for amicable and just arrangements respecting depredations committed by disorderly persons of their tribe. And generally, from a conviction that we consider them as a part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining strength daily, is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufacture are advancing among them, more rapidly with the southern than northern tribes, from circumstances of soil and climate; and one of the two great divisions of the Cherokee nation have now under consideration to solicit the citizenship of the United States, and to be identified with us in laws and government in such progressive manner as we shall think best.

In consequence of the appropriations of the last session of Congress for the security of our sea-port towns and harbours, such works of defence have been erected as seemed to be called for by the situation of the several places, their relative importance, and the scale of expense indicated by the amount of the appropriation. These works will chiefly be finished in the course of the present season, except at New York and New Orleans, where most was to be done: and although a great proportion of the last appropriation has been expended on the former place, yet some farther views will be submitted to Congress for rendering its security entirely adequate against naval entorprise. A view of what has been done at the several

places, and of what is proposed to be done, shall be communicated as soon as the several reports are received.

Of the gun-boats authorized by the act of December last, it has been thought necessary to build only one hundred and three in the present year. These, with those before possessed, are sufficient for the harbours and waters most exposed, and the residue will require little time for their construction when it shall be deemed necessary.

Under the act of the last session for raising an additional military force, so many officers were immediately appointed as were necessary for carrying on the business of recruiting, and in proportion as it advanced, others have been added. We have reason to believe their success has been satisfactory, although such returns have not yet been received as enable me to present you a statement of the numbers engaged.

I have not thought it necessary in the course of the last season to call for any general detachments of militia or of volunteers, under the laws passed for that purpose. For the ensuing season, however, they will be required to be in readiness, should their service be wanted. Some small and special detachments have been necessary to maintain the laws of embargo, on that portion of our northern frontier which offered peculiar facilities for evasion, but these were replaced as soon as it could be done by bodies of new recruits. By the aid of these, and of the armed vessels called into service in other quarters, the spirit of disobedience and abuse, which manifested itself early, and with sensible effect while we were unprepared to meet it, has been considerably repressed.

Considering the extraordinary character of the times in which we live, our attention should unremittingly be fixed on the safety of our country. For a people who are free, and who mean to remain so, a well organized and armed militia is their best security. It is therefore incumbent on us, at every meeting, to revise the condition of the militia, and to ask ourselves if it is prepared to repel a powerful enemy at every point of our territories exposed to invasion? Some

of the states have paid a laudable attention to this object; but every degree of neglect is to be found among others. Congress alone having the power to produce an uniform state of preparation in this great organ of defence, the interests which they so deeply feel in their own and their country's security will present this as among the most important objects of their deliberation.

Under the acts of March eleventh and April twenty-third, respecting arms, the difficulty of procuring them from abroad during the present situation and dispositions of Europe induced us to direct our whole efforts to the means of internal supply. The publick factories have therefore been enlarged, additional machineries erected, and in proportion as artificers can be found or formed, their effect, already more than doubled, may be increased so as to keep pace with the yearly increase of the militia. The annual sums appropriated by the latter act have been directed to the encouragement of private factories of arms, and contracts have been entered into with individual undertakers to nearly the amount of the first year's appropriation.

The suspension of our foreign commerce, produced by the injustice of the belligerent powers, and the consequent losses and sacrifices of our citizens, are subjects of just concern. The situation into which we have thus been forced, has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labour from taxation with us, and of protecting duties and prohibitions, become permanent. The commerce with the Indians, too, within our own boundaries, is likely to receive abundant alimant from the same internal source, and will secure to them peace and the progress of civilization undisturbed by practices hostile to both.

The accounts of the receipts and expenditures during the year ending on the 30th day of September last, being not

yet made up, a correct statement will hereafter be transmitted from the treasury. In the mean time it is ascertained that the receipts have amounted to near eighteen millions of dollars, which with the eight millions and a half in the treasury at the beginning of the year, have enabled us, after meeting the current demands, and interest incurred, to pay two millions three hundred thousand dollars of the principal of our funded debt, and left us in the treasury on that day near fourteen millions of dollars. Of these, five millions three hundred and fifty thousand dollars will be necessary to pay what will be due on the first day of January next, which will complete the reimbursement of the eight per cent. stock. These payments, with those made in the six years and a half preceding, will have extinguished thirty-three millions five hundred and eighty thousand dollars of the principal of the funded debt, being the whole which could be paid or purchased within the limits of the law and of our contracts, and the amount of principal thus discharged will have liberated the revenue from about two millions of dollars of interest, and added that sum annually to the disposable surplus. The probable accumulation of the surpluses of revenue beyond what can be applied to the payment of the publick debt, whenever the freedom and safety of our commerce shall be restored, merits the consideration of Congress. Shall it lie unproductive in the publick vaults? shall the revenue be reduced? or shall it not rather be appropriated to the improvements of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already possess, or such amendment of the constitution as may be approved by the states? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best.

Availing myself of this, the last occasion which will occur of addressing the two houses of the legislature at their meeting, I cannot omit the expression of my sincere gratitude, for the repeated proofs of confidence manifested to

me by themselves and their predecessors since my call to the administration, and the many indulgences experienced at their hands. The same grateful acknowledgments are due to my fellow citizens generally, whose support has been my great encouragement under all embarrassments. In the transaction of their business I cannot have escaped error. It is incident to our imperfect nature. But I may say with truth my errors have been of the understanding, not of intention, and that the advancement of their rights and interests has been the constant motive for every measure. On these considerations I solicit their indulgence. Looking forward with anxiety to their future destinies, I trust that in their steady character, unshaken by difficulties, in their love of liberty, obedience to law, and support of the public authorities, I see a sure guarantee of the permanence of our republic; and retiring from the charge of their affairs, I carry with me the consolation of a firm persuasion, that Heaven has in store for our beloved country, long ages to come of prosperity and happiness.

TH : JEFFERSON.

DOCUMENTS

ACCOMPANYING THE MESSAGE FROM THE PRESIDENT OF
THE UNITED STATES. NOVEMBER 9, 1808.

*Mr. Madison, Secretary of State, to General Armstrong,
Minister Plenipotentiary of the U. States at Paris*

[EXTRACTS.]

DEPARTMENT OF STATE, MAY 22, 1807.

"THE two last letters received from you were of December 24 and January 16.

"The decree of November 21, communicated in the first, had previously reached us, and had excited apprehensions which were repressed only by the inarticulate import of its articles, and the presumption that it would be exe-

outed in a sense not inconsistent with the respect due the treaty between France and the United States. The explanations given you by the minister of marine were seen by the President with much pleasure, and it only remains to learn that they have been confirmed by the express authority of the emperor. We are the more anxious for this information, as it will fortify the remonstrances which have been presented at London against the British order of January 7th. Should it, contrary to expectation, turn out that the French decree was meant, and is to operate according to the latitude of its terms, you will of course have made the proper representations, grounded as well on the principles of public law, as on the express stipulations of the convention of 1800. Nothing, besides, could be more preposterous than to blend with an appeal to neutral rights and neutral nations, a gross infraction of the former, and outrage on the sentiments of the latter; unless it be to invite a species of contest on the high seas, in which the adversary has every possible advantage. But on the more probable supposition that the decree will not be unfavourably expounded, it will be still necessary to press on the French government a despatch of such orders to their cruisers, in every quarter, as will prevent a construction of the decree favourable to their licentious cupidity. The moment your letter was received, the answer of the French minister of marine to your note was communicated to general Turreau, with a call on him to transmit it immediately to the French governors in the West Indies. This he readily engaged to do. But notwithstanding this precaution, there are proofs that the West India privateers have, under colour of the edict, committed depredations which will constitute just claims of redress from their government.

“Mr. Erving has forwarded a Spanish decree also, avowedly pursuing the example and the views of the French emperor. The terms of this decree are even more vague, or rather more broad, than those of the prototype; and if not speedily recalled or corrected, will

doubtless extend the scene of spoliations already begun in that quarter, and of course thicken the cloud that hangs over the amity of the two nations."

Extract of a Letter from Mr. Madison to Gen. Armstrong.

DEPARTMENT OF STATE, FEB. 8th, 1808.

"Your letters and communications by doctor Bullus were duly delivered on the fourteenth day of December. The same conveyance brought a copy of the sentence pronounced by the French prize court in the case of the *Horizon*, giving a judicial effect to the decree of November 21st 1806, as expounded in the answer of M. Champagny to your letter of the 12th November, 1807.

Whilst the French government did not avow or enforce a meaning of the decree of November, 1806, in relation to the United States, extending its purview beyond the municipal limits, it could not in strictness be regarded as an infraction either of our neutral or conventional rights; and consequently did not authorize more than a demand of reasonable explanations of its doubtful import, or friendly expostulations with respect to the rigour and suddenness of its innovations.

The case is now essentially changed. A construction of the decree is avowed and executed, which violates as well the positive stipulations of the convention of September 30th, 1800, as the incontestable principles of public law; and the President charges you to superadd to whatever representations you may have previously made, a formal remonstrance in such terms as may be best calculated either to obtain a recall of the illegal measure, so far as it relates to the United States, or to have the effect of leaving in full force all the rights accruing to them from a failure to do so.

That the execution of local laws against foreign nations on the high seas, is a violation of the rights of the former and the freedom of the latter, will probably not be questioned. A contrary principle would in fact imply the same

exclusive dominion over the entire ocean as is enjoyed within the limits of the local sovereignty, and a degradation of every other nation from its common rights and equal rank.

If it be contended that the decree, as a retaliation on the other belligerent, at the expense of neutral nations, is justified by a culpable acquiescence in the prior measures of that belligerent, operating through neutrals, you will be able to deny such acquiescence, and to urge moreover that, on every supposition, the retaliating measure could not be justly enforced in relation to neutrals, without allowing them at least a reasonable time for choosing between due measures against the prior wrong and an acquiescence in both. The copy of the representations to the British government through its minister here, on the subject of its orders of January, 1807, will at once disprove an acquiescence on the part of the United States, and explain the grounds on which the late extension of the French decree of November, 1806, is an object of just remonstrance.

The conduct of the French government in giving this extended operation to its decree, and indeed in issuing one with such an apparent or doubtful import against the rights of the sea, is the more extraordinary, inasmuch as the inability to enforce it on that element exhibited the measure in the light of an empty menace, at the same time that it afforded pretexts to her enemy for severe retaliations, for which ample means are found in her naval superiority.

The accumulated dangers, to which the illegal proceedings of the belligerent nations have subjected the commerce and navigation of the United States, have at length induced Congress to resort to an embargo on our own vessels, as a measure best fitted for the crisis; being an effectual security for our mercantile property and mariners now at home and daily arriving, and at the same time neither a measure nor just cause of war. Copies of this act were soon after its passage transmitted to Mr. Pinkney, with an authority to assure the British government

that it was to be viewed in this light; and that it was not meant to be the slightest impediment to amicable negotiations with foreign governments. He was requested to avail himself of an opportunity of communicating to you and Mr. Erving this view of the subject, and I hope that you will have been thence enabled to present it to the French government. Not relying however on that indirect opportunity, I send by this another copy of the act, with an instruction from the President, that you make it the subject of such explanations as will guard against any misconception of the policy which led to it. It is strictly a measure of precaution required by the dangers incident to external commerce, and being indiscriminate in its terms and operation towards all nations, can give no just offence to any. The duration of the act is not fixed by itself; and will consequently depend on a continuance or cessation of its causes in a degree sufficient in the judgment of the legislature to induce or forbid its repeal. It may be hoped that the inconveniences felt from it by the belligerent nations, may lead to a change of the conduct which imposed the inconveniences of it on ourselves. France herself will be a sufferer, and some of her allies far more so. It will be very agreeable to find in that consideration, and still more in her sense of justice, a sufficient motive to an early manifestation of the respect due to our commercial rights. The example would be worthy of the professions which she makes to the world on this subject.

" FEB. 18. Since the above was written, I have been under a degree of indisposition, which has suspended the proposed continuation of it, and which now will oblige me to be very brief; the more so, as the vessel has been some days detained, which was engaged for the special purpose of conveying publick despatches and private letters to Europe.

" The delay has enabled me to inform you, that Mr. Erskine, a few days ago, communicated by instructions from his government, its late decrees of November 11th, and those forming a sequel to them. The communication

was accompanied with assurances that much regret was felt by his Britannic majesty, at the necessity which the conduct of his enemy had created for measures so embarrassing to neutral commerce, and that his majesty would readily follow an example of relinquishing such a course, or even of making relaxations, *pari passu*, with his enemy.

“Whether these intimations have any reference to the distinction between such parts of the French decree as operate municipally on shore, and such as operating on the high seas, violate the rights of neutrals, or to a distinction between the former restriction and the late extension of the decree with respect to the United States, Mr. Erskine did not seem authorized to say. The probability is, that neither of these distinctions entered into the views of the British cabinet. But it is certainly neither less the duty nor the true policy of the emperor of the French so to vary his decree as to make it consistent with the rights of neutrals and the freedom of the seas, and particularly with his positive stipulations to the United States. This may be the more reasonably expected, as nothing can be more clear, as has been already observed, than that the effect of the decree, as far as it can be carried into effect, would not be sensibly diminished by abolishing its operation beyond the limits of the territorial sovereignty.

“In remonstrating against the injustice and illegality of the French decree, I am aware that you may be reminded of antecedent injuries to France and her allies through British violations of neutral commerce. The fact cannot be denied, and may be urged with great force, in our remonstrances against the orders to which Great Britain has given a retaliating character; since the French decree might on the same ground be pronounced a retaliation on the preceding conduct of Great Britain. But ought the legitimate commerce of neutrals to be thus the victim and the sport of belligerents contesting with each other the priority of their destructive innovations; and without leaving, either of them, to neutrals, even the opportunity or the time for disproving that culpable acquiescence which

is made the pretext by both for the wrongs done to them? And I must repeat that, apart from all questions of this nature, the French decree, or at least the illegal extensions of it to the United States, remain chargeable with all the impolicy which has been pointed out.

“ I find by accounts from Hamburg, Bremen, Holland, and Leghorn, that the trade and property of our citizens have been much vexed by regulations subaltern to those of the original decree of November, 21, 1806. How far the complaints are founded on proceedings violating our public rights, or on such as are unfriendly and inequitable towards our citizens who have placed their property within those jurisdictions, you will be able to decide better than we can do at this distance; and the President refers to your own judgment the kind of representation to the French government, which those and other analogous cases may require.”

Extracts of a Letter from Mr. Madison to General Armstrong.

“ DEPARTMENT OF STATE, MAY 2, 1808.

“ SINCE my last, of which lieutenant Lewis was the bearer, I have received your several letters of 27th December, 22d January, 15th and 17th February, with their respective enclosures.

That of the 15th January from M. Champagny to you, has, as you will see by the papers herewith sent, produced all the sensations here, which the spirit and style of it were calculated to excite in minds alive to the interests and honour of the nation. To present to the United States the alternative of bending to the views of France against her enemy, or of incurring a confiscation of all the property of their citizens carried into the French prize courts, implied that they were susceptible of impressions by which no independent and honourable nation can be guided, and to prejudge and pronounce for them the effect which the conduct of another nation ought to have on their councils and

course of proceeding, had the air, at least, of an assumed authority, not less irritating to the publick feelings. In these lights, the President makes it your duty to present to the French government the contents of M. Champagny's letter; taking care, as your discretion will doubtless suggest, that whilst you make that government sensible of the offensive tone employed, you leave the way open for friendly and respectful explanations, if there be a disposition to offer them; and for a decision here on any reply which may be of a different character."

"Congress closed their session on the 25th ult. For a general view of their proceedings, I refer to the series of newspapers heretofore and now forwarded, and to other prints which are added. Among their acts of chief importance, is that which vests in the President an authority to suspend, in whole or in part, the embargo laws.

The conditions on which the suspending authority is to be exercised will engage your particular attention. They appeal equally to the justice and the policy of the two great belligerent powers, now emulating each other in violations of both. The President counts on your best endeavours to give to this appeal all the effect possible with the French government. Mr. Pinkney will be doing the same with that of Great Britain. The relation in which a recall of its retaliating decrees by either power, will place the United States to the other is obvious; and ought to be a motive to the measure proportioned to the desire which has been manifested by each, to produce collisions between the United States and its adversary; and which must be equally felt by each to avoid one with itself.

Should wiser councils or increasing distresses induce Great Britain to revoke her impolitick orders against neutral commerce, and thereby prepare the way for a removal of the embargo as it applies to her, France could not persist in the illegal part of her decrees, if she does not mean to force a contest with the United States. On the other hand, should she set the example of revocation, Great Britain would be obliged, either by following

it, to restore to France the full benefit of neutral trade which she needs, or by persevering in her obnoxious orders after the pretext for them had ceased, to render collisions with the United States inevitable.

In every point of view, therefore, it is so clearly the sound policy of France, to rescind so much at least of her decrees as trespass on neutral rights, and particularly to be the first in taking the retrograde step, that it cannot be unreasonable to expect that it will be immediately taken.

In whatever degree the French government may be led to change its system, you will lose no time in transmitting the information to this department, and to Mr. Pinkney, and by hired conveyances if necessary. A correspondent instruction is given to Mr. Pinkney.

It is of the greater importance that you should receive from each other the earliest notice of any relaxations, as each government is under a pledge to follow such an example by the other. And it is not of less importance that the President or Congress should be acquainted with the facts, that the proceedings here may be accommodated to them."

"That you may know the grounds on which the British orders of November have been arraigned by this government, I enclose a copy of the answer to Mr. Erskine's note communicating them, a copy of the note being also enclosed.

The other documents communicated will put you in full possession of the relations of the United States with Great Britain, as resulting from the issue of our general negotiations, and from that of the mission of Mr. Rose.

This despatch is forwarded by Mr. Baker, who takes his passage from Baltimore, in a vessel engaged as was the Osage, which sailed from New York, for the special purpose of publick and mercantile correspondence with Europe. She will proceed, in the first instance, to L'Orient, where she will leave Mr. Baker, and thence proceed with despatches for Mr. Pinkney to Falmouth, where

she will remain a few days to receive communications from him; she will then return to L'Orient, in order to bring back Mr. Baker with your communications."

Mr. Madison, to General Armstrong.

DEPARTMENT OF STATE, JULY 21, 1808.

SIR,

HEREWITH you will receive a copy of the papers relating to one of the vessels which were destroyed at sea by the French frigates returning from the West Indies. I observe that in your letter to M. Champagny, of the 2d of April, you have incidentally noticed this occurrence. If ample reparation should not have been made to the sufferers, the President thinks it proper, that as their cases become authenticated, you should present them in terms which may awaken the French government to the nature of the injury and the demands of justice. The burning of neutral vessels detained on the high seas is the most distressing of all the modes by which belligerents exert force contrary to right; and in proportion as it is destitute of apology, ought at least to be the promptitude and amplitude of the redress. If it be contended that the destruction in these cases proceeded solely from the danger that, otherwise, intelligence might reach a pursuing or hovering force, it may be answered, that if such a plea were of greater avail, it would only disprove a hostility of intention, without diminishing the obligation to indemnify, on the most liberal scale, the injured individuals. It may be added, that if the outrage on the individuals was not meant as a hostility towards their nation, the latter might justly expect a tender of such explanations as would leave no doubt on this subject.

I have the honour to be, &c.

(Signed)

JAMES MADISON.

*General ARMSTRONG, Minister Plenipotentiary
of the United States, Paris.*

Extract of a Letter from Mr. Madison to Gen. Armstrong.

“ DEPARTMENT OF STATE, JULY 22, 1808.

“ YOUR despatches by lieutenant Lewis were delivered on the 8th instant.

It is regretted that the interval between his arrival and the date of your letter to M. Champagny, during which I presume some verbal intercommunication must have taken place, had produced no indication of a favourable change in the views of the French government with respect to its decrees; and still more that instead of an early and favourable answer to your letter, it should have been followed by such a decree as is reported to have been issued on the 22d April, at Bayonne. The decree has not yet reached the United States, and therefore its precise import cannot be ascertained. But if it should be, as it is represented, a sweeping stroke at all American vessels on the high seas, it will not only extend our demands of reparation, but is rendered the more ominous with respect to the temper and views of the emperor towards the United States by the date of the measure.

The arrival of Mr. Baker with my letter of May 2d, of which a copy is herewith sent, will have enabled you to resume the subject of the decrees with the fairest opportunity that could be given to the French government for a change of the unjust and unwise course which has been pursued, and I assure myself that you will not have failed to turn the communications with which you are furnished to the best account. If France does not wish to throw the United States into the war against her, for which it is impossible to find a rational or plausible inducement, she ought not to hesitate a moment, in revoking at least so much of her decrees as violate the rights of the sea, and furnish to her adversary the pretext for his retaliating measures. It would seem as if the imperial cabinet had never paid sufficient attention to the smallness of the sacrifice which a repeal of that portion of its system would involve, if an act of justice is to be called a sacrifice.

The information by the return of the *Osage* from England is not more satisfactory than that from France.— Nothing was said on the subject of the *Chesapeake*, nor any thing done or promised as to the orders in council. It is probable that further accounts from the United States were waited for, and that the arrival of the *St. Michael* will have led to a manifestation of the real views of that government on those and other subjects. In the mean time it cannot be doubted that hopes were cherished there of some events in this country favourable to the policy of the orders, and particularly that the offensive language and proceedings of France, would bring on a hostile resistance from the United States; in which case the British government would be able to mould every thing to its satisfaction. There is much reason to believe that if the British government should not concur in a mutual abolition of the orders and of the embargo, it will result from an unwillingness to set an example which might be followed and might consequently put an end to the irritating career of her enemy, on which the calculation is built. Might not use be made of this view of the matter in those frank and friendly conversations which sometimes best admit topics of a delicate nature, and in which pride and prejudice can be best managed, without descending from the necessary level? In every view it is evidently proper, as far as respect to the national honour will allow, to avoid a style of procedure which might cooperate with the policy of the British government, by stimulating the passions of the French."

[DUPLICATE.]

General Armstrong to Mr. Madison.

PARIS, NOV. 12, 1807.

SIR,

It was not till yesterday, that I received from Mr. Skipwith a copy of the decree of the council of prizes in the case of the *Horizon*. This is the first unfriendly decision of that body under the *arrêté* of the 21st of November, 1806. In this case, and on the petition of the defendant;

the court has recommended the restitution of the whole cargo. I did not however think proper to join in asking as a favour, what I believed myself entitled to as a right. I subjoin a copy of my note to the minister of foreign affairs, and am, sir, &c.

(Signed)

JOHN ARMSTRONG.

The same to M. Champagny.†

PARIS, NOV. 12, 1807.

SIR,

THE document to which these observations are prefixed will inform your excellency, that an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering shipwreck on the coast of France, has recently been seized by his majesty's officers, and adjudged by his council of prizes as follows, viz.

"Our council puts at liberty the American vessel the *Horizon*, shipwrecked the 30th of May last, near Morlaix, and consequently orders that the amount arising from the sale legally made of the wreck of the said vessel, together with the merchandise of the cargo, which, according to an estimate made in presence of the overseers of the administrations of the marine and custom house, shall have been acknowledged not to proceed from English manufactures, nor from English territory, shall be restored to captain Mac Clure, without deducting any other expenses than those relative to the sale: and with regard to the other merchandise of the cargo, which, from the result of the said estimate, shall be acknowledged to come from English manufactures, or English territory, by virtue of the 5th article of the decree of the 21st of November, 1806, it shall be confiscated for the use of the state: the whole to be sold by the forms prescribed in the regulations, and the application of the product to be made in conformity to the

† *Note of general Armstrong.*—"In the former copy nearly a page of this letter was omitted by the copier."

arrangements of the said decree; deduction being made for the expense of saving the goods, and that of the support of the crew, until the day that the captain shall receive the notification of the present decision."

The reasons upon which this decision is founded are at once so new, and so alarming to the present friendly relations of the two powers, that I cannot but discuss them with a freedom, in some degree proportioned to my sense of their novelty and importance.

"Considering," says the council,

"1st. That the neutrality of the ship and cargo were sufficiently established, the whole ought to be restored (agreeably to the provisions of the convention of the 8th of September, 1800) provided no merchandise of English origin had been found in her, and of course, that she had not been brought within the limits of the imperial decree of the 21st of November, 1806."

Here is an open and unqualified admission, that the ship was found within the rules prescribed by the convention of 1800; that, according to these rules, her cargo and herself ought to have been restored; and that such would have been the fact, but for the operation of the decree of the 21st of November, 1806.

In the letter your excellency did me the honour to write to me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation was to be effected: they no doubt fully existed, and yet exist, in his majesty's good pleasure; and, taking for granted this fact, I saw in the opinion nothing but proofs of friendly dispositions and pledges, that these were not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority, and the consolations derived from it, is this recent act of the council of prizes? an act which explicitly acknowledges the opposite characters and conflicting injunctions of these two instruments, and which, of course draws after it considerations the most serious to the government of the United States.

The second reason of the council is—

“That the decree declaring (British) merchandise good prize, had principally in view captures made on the high seas; but that the question, whether shipwrecked goods ought to be restored, or confiscated, having always been judged under the 14th article of the regulation of the 26th of July, 1778, and according to their character (which might have rendered lawful, or have even commended their seizure at sea) there is no room to introduce in this case any new distinction, which, however philanthropick it may appear, has not as yet been adopted as a rule by any maritime nation.”

The doctrine resisted in this passage, and which inclines the duty of extending protection to the unfortunate, is not new to his majesty's council of prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision they restored an enemy's ship (the *Diana*) on the *single reason*, that she had been “*compelled to enter a French port by stress of weather.*” “I should equally fail,” says the attorney general, “in respect to myself, and to the council, before whom I have the honour to represent the government, *were I not to maintain a principle, consecrated by our laws, and by those of all nations.* In all circumstances, let the loyalty of the French government serve as the basis of your decisions. Prove yourselves at once generous and just; your enemies will know and respect your magnanimity.” Such was the principle adopted by the council in the year 1800, and in the case of an enemy's ship; yet, we are now told, that this very principle, so honourable to the court, to the nation, and to human nature, is utterly unknown to all maritime people; and on what occasion do we hear this? When an enemy's ship is again thrown on the French coast? No: it has been reserved for the wreck of a neutral and friendly vessel! for a ship of the United States! It is not denied, that had this ship escaped the rocks and made the port of Morlaix, the only inhospitality to which she would have been exposed (under the most rigorous inter-

pretation of the law in question) would have been that of being ordered again to sea. Has then the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also? and is this among the principles which the defender of maritime rights means to consecrate by his power and his wisdom? It is impossible.

The third reason of the council is, "that the application of the 5th article aforesaid, in as far as it concerns the American and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his excellency the grand judge, concerning the primitive intention of the sovereign."

This reason will be found to be substantially answered in my reply to reason No. 5 of the council. It will be seen that the opinion given here, that "the application of article 5 of the imperial decree to American commerce, is the result of the general expressions of that very article," was not the opinion of the council on the 5th of March last, when they judged the case of the *Hibernia*; they then declared, in totidem verbis, that the decree "said nothing of its own influence on the convention of 1800," between the United States and France.

The fourth reason of the council is, "that the exposition in question having certainly been made with full knowledge of the said decree, no objection can be drawn, with any propriety, from the general rules forbidding a retrospective action, nor even, in this particular case, from the posterior date of the act in which the sovereign decides the question, since that act sprang from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an antérieur and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point, and the declaration of an antérieur and positive rule. This distinction cannot be maintained; for if the rule had been positive, there would have been no occasion for the declaration. Neither the minister of marine, nor the council of prizes, could have had any doubts on the subject; the execution of the decree

would have been prompt and peremptory; nor would a second act on the part of his majesty, after the lapse of twelve months, have been necessary to give operation to the first. Need I appeal to your excellency's memory for the facts on which these remarks turn? You know that doubts did exist. You know that there was, under them, much hesitation in pronouncing.... You know, that as late as the 8th of August, I sought an explanation of the decree in question, and that even then, your excellency (who was surely a competent and legitimate organ of his majesty) did not think yourself prepared to give it. The conclusion is inevitable: his majesty's answer, transmitted to the court of prizes on the 18th of September last, through the medium of the grand judge, was in the nature of an interpretation, and being so, could not, without possessing a retro-active quality, apply to events many months anterior in date to itself.

The fifth reason of the council, and the last which enters into my present view of the subject, is, "that though one of the principal agents of his majesty had given a contrary opinion, of which the council had at no period partaken: this opinion being that of an individual, could not, (whatever consideration its author may merit) balance the formal declaration given in the name of his majesty himself, and that, if the communication of this opinion had, as is alleged, given room to, and served as a basis for many American shipments, and particularly of the one in question, this circumstance, which may call for the indulgence of his majesty, in a case in which the confiscation is entirely to the advantage of the state, does not prevent a council, rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which followed it."

It would appear from this paragraph, that, not finding it easy to untie the knot, the council had determined to cut it. Pressed by the fact, that an interpretation of the decree had been given by a minister of his majesty, specially charged with its execution, they would now escape

from this fact, and from the conclusions to which it evidently leads, by alleging,

1st. That at no time had the council partaken of the opinion given by the minister: and

2d. That this opinion, being that of *an individual*, could not possess either the force or authority of one truly ministerial.

It appears to me, as I think it will appear to your excellency, that the council have, in these statements, been less correct than is usual to them on similar occasions. If, as they now assert, they have never partaken of the minister's opinion; if they have never even hesitated on the question, whether the decree of November did, or did not, derogate from the treaty of 1800; why, I ask, suspend the American cases generally? or why decide as they did in the case of the *Hibernia*? If I mistake not, we find in this case the recognition of the very principle laid down by the minister of marine. That officer says, "In my opinion, the November decree does not work any change in the rules at present observed, with respect to neutral commerce, and consequently none in the convention of the 8th Vendemiaire, year 9:" And what says the council? "*Admitting that this part of the cargo (the rum and ginger) was of British origin, the dispositions of the November decree (which contain nothing with regard to their own influence over the convention of the 8th Vendemiaire, year 9) evidently cannot be applied to a ship leaving America on the 6th of the same month of November; and, of course, cannot have authorized her capture, in the moment she was entering the neutral port of her destination.*" We have here, three distinct grounds of exemption from the effects of the November decree.

1st. The *entire silence* of that decree, with regard to its own influence over the convention of 1800.

2d. The *early period* at which the ship left the United States, and

3d. The *neutral character* of the port to which she was destined.

If such, sir, were the principles admitted by the council on the 25th of March last, with what correctness can it be now said, "that at no period have they partaken of the opinion of the minister?"

The second fact asserted by the council is, that the interpretation of the decree in question, given on the 24th of December, 1806, was *private*, not *public*; or, in other words, that it was the interpretation of the *man*, not that of the *minister*, and as such, cannot outweigh the more recent declaration coming directly from his majesty himself.

On the comparative weight of these declarations, I shall say nothing, nor shall I do more to repel the first part of the insinuation (*that the minister's declaration was that only of the individual*) than to submit to your excellency my letter of the 20th of December, 1806, claiming from that minister an *official* interpretation of the decree in question, and his answer of the 24th of the same month, giving to me the interpretation demanded.

To your excellency, who, as late as the 21st of August last, considered the minister of marine as the natural organ of his majesty's will, in whatever regarded the decree aforesaid, and who actually applied to him for information relating to it, this allegation of the council of prizes, and the reasoning founded upon it, cannot but appear very extraordinary, and will justify me in requesting, that his majesty may be moved to set aside the decision in question, on the ground of error in the opinion of the council.

If, in support of this conclusion, I have drawn no arguments from the treaty of 1800, nor from the laws of nations, your excellency will not be at a loss to assign to this omission its true cause. It would surely have been a useless formality to appeal to authorities, not only practically, but even professedly extinct. In the letter of the minister of justice, of the 18th of September, we are told by his majesty himself, that "since he had not judged proper to make any exception in the letter of his decree, there was no room to make any in its execution."—And in the report of your excellency's predecessor, of the 20th of November, 1806, we have these memorable words:

“ England has declared those places blockaded, before which she had not a single ship of war.

“ She has done more, for she has declared in a state of blockade, places, which all her assembled forces were incapable of blockading—immense coasts, and a vast empire.

“ Afterwards, drawing from a chimerical right, and from an assumed fact, the consequence that she might justly make her prey of every thing going to the places laid under interdiction, by a simple declaration of the British admiralty, and of every thing arising therefrom, and carrying this doctrine into effect, she has alarmed neutral navigators, and driven them to a distance from ports whither their interests attracted them, and which the law of nations authorized them to frequent.

“ Thus it is, that she has turned to her own profit, and to the detriment of Europe, but more particularly of France, the audacity with which she mocks at *all rights, and insults even reason itself.*

“ Against a power which forgets to such a pitch all ideas of justice, and all humane sentiments, *what can be done, but to forget them for an instant one's self?*”

Words cannot go farther to show the extinguished authority, in the one case, of the treaty subsisting between the United States and his imperial majesty, and, in the other, of the law of nations: to appeal to them, therefore, would be literally appealing to the dead.

Accept, sir, &c. &c. &c.

(Signed)

JOHN ARMSTRONG.

To his excellency the Minister of Foreign Relations.

General Armstrong to Mr. Madison.

PARIS, DEC. 1, 1807.

SIR,

I HAVE this moment received a letter from his majesty's minister of foreign relations, of which I subjoin a copy and am, sir, &c.

(Signed)

JOHN ARMSTRONG.

M. Champagny to General Armstrong.

[TRANSLATION.]

MILAN, NOV. 24, 1807.

MR.

THE execution of the measures taken against the English commerce has frequently caused reclamations on your part. The intention of his majesty, without doubt, is, that every particular abuse may be repressed: but the federal government cannot make any complaint against the measures themselves; and while the United States allow that their vessels may be visited by England, that she may drag them into her ports, and turn them from their destination; while they do not oblige England to respect their flag, and the merchandise which it covers; while they permit that power to apply to them the absurd rules of blockade which it has set up with the view of injuring France; they bind themselves by that tolerance towards England to allow also the application of the measures of reprisals which France is obliged to employ against her. His majesty regrets, without doubt, to have been forced to recur to such measures: he knows all that the commercial classes may have to suffer in consequence of them, particularly those, who, having habitual relations with England, using a common language, and often mixing their interests, might more frequently occasion an apprehension of some commercial connivance with the English, inasmuch as they would have greater facilities in covering it. This circumstance made it necessary to use towards them precautions more exact, and an unceasing watchfulness, in order not to be exposed to abuses, which might result from a less constant vigilance. But it is not to France, it is to England, that these inconveniences to individuals ought to be imputed. She it is who has given the example of measures unjust, illegal, and infringing on the sovereignty of nations. To oblige her to renounce them, it has become necessary to combat her with her own arms: in violating the rights of all nations, she has united

them all by a common interest, and it is for them to have recourse to force against her ; to forbid her the search (la visite) of their vessels ; the taking away of their crews ; and to declare themselves against measures which wound their dignity and their independence. The unjust pretensions of England will be kept up as long as those, whose rights she violates, are silent ; and what government has had more to complain of against her than the United States ? All the difficulties which have given rise to your reclamations, sir, would be removed with ease, if the government of the United States, after complaining in vain of the injustice and violations of England, took with the whole continent the part of guaranteeing itself therefrom. England has introduced into the maritime war an entire disregard for the rights of nations : it is only in forcing her to a peace that it is possible to recover them. On this point the interest of all nations is the same. All have their honour and their independence to defend.

Accept, sir, &c. &c. &c.

(Signed)

CHAMPAGNY.

Extract from a Letter of General Armstrong to Mr. Madison, dated Paris, February 17, 1808.

“ENCLOSED is a copy of the answer from the minister of marine to my letter of the 13th instant, in relation to the sale of a part of the cargo of the ship *James Adams*. It would now appear, that the promises of forbearance made by another department, are applicable only to vessels sequestered in the ports, and not to such as have been captured at sea.”

[5th division of prizes.]

Extract from a Letter of the Minister of Marine to General Armstrong, dated Paris, Feb. 15, 1808.

[TRANSLATION.]

“I OBSERVE to you moreover that the question now is not as to a vessel sequestered in port ; but as to a prize made

at sea, and seized for a contravention of the decree of the 17th Dec. last: that the provisional sale ordered on account of the "average" is for the interest as well of the captured, as of the captors, and it is directed according to the case provided for by the regulation of the 2d Prairial, 11th year."

[EXTRACT.]

General Armstrong to Mr. Madison.

PARIS, APRIL 5, 1808.

"I RECEIVED the despatches you did me the honour to address to me by Mr. Lewis, on the 26th ultimo.

"Though I had complained often and earnestly of both the principles and operation of the emperor's decrees of November, 1806, and December, 1807—(having written at least twenty notes on the different cases which have arisen under them) yet, as the President's orders were express, that on receipt of your letter I should superadd to whatever representations might have been previously made, a formal remonstrance against those decrees, I did not lose a moment in writing and presenting the enclosed note; the terms of which will, I hope, appear to be such as were proper or necessary to the case, and calculated, either to obtain a recall of the illegal measures, or to leave in full force the rights accruing to the United States from a failure on the part of France to recall them. To this note I have not yet received an answer, nor have I reason to expect one soon, as the emperor has left Paris (it is said for Spain) and had, at no time before he set out, indicated any alteration in the views which originally produced the decrees in question.

"Mr. Pinkney found means (in the return to the continent of M. d'Alopeus) to communicate the President's views on the subject of the general embargo, and particularly the desire he had, that it should not be considered as a measure of hostility against any foreign nation. Some explanations of this kind were perhaps necessary in Eng-

land, where, from the misrepresentations of our own people, the character of the policy was likely to be misunderstood; but as neither the same, nor any other reason existed for making them here, none have been offered."

General Armstrong to M. Champagny.

PARIS, APRIL 2, 1868.

SIR,

HAVING submitted to the government of the United States, copies of the imperial decrees of the 21st of November, 1866, and 17th of December, 1867, and of the expositions which your excellency has been pleased, at different times, to give of them, I have recently received the instructions of the President to remonstrate against both the provisions and operation of the said decrees, on the ground of their infracting, as well the positive stipulations of a particular treaty, as the incontestable principles of public law.

In discharging this duty, your excellency will permit me to recall to your remembrance the twelfth and fourteenth articles of the treaty made between the United States and France, on the 30th of September, 1860. These articles provide,

1st. That "it shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass not only directly from the places and ports of the enemy aforesaid to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be or be not under the jurisdiction of the same power, unless such ports or places shall be actually blockaded, besieged, or invested."

2d. That "vessels sailing for a port or place belonging

to an enemy, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place; but they shall not be detained, nor any part of their cargo (not contraband) confiscated, unless, after notice of such blockade or investment, they shall again attempt to enter; but they shall be permitted to go to any other port or place they shall think proper."

3d. That "free ships shall give a freedom to goods, and that every thing shall be deemed to be free and exempt, which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either: contraband goods being always excepted."

These stipulations are not more clear in themselves, nor of more indisputable application and authority in the present case, than the injunctions of publick law, by which they are enforced, viz. that local regulations (excepting by virtue of convention) cannot apply to foreign nations on the high seas, without violating the rights of the one, and the freedom of the other; that blockades can only exist, when places are so invested that no serious attempts can be made to approach them without exposing the parties making them to imminent danger; that merchant vessels may be visited without any degradation to the flag of the nation to which they belong, &c. &c. &c. But why multiply proofs of a position which is not denied? Does not the official report of your enlightened predecessor, of the 21st of November, 1806, admit the illegitimacy of the original decree? Does it not expressly say, that the doctrines of blockade introduced by England are monstrous and indefensible? and that the practice, like the doctrine, is a mockery of right, and an insult upon reason? After strictures so severe, because so just, what can be said for the policy of France, which differs in nothing from that of England? Has your excellency attempted to defend either the theory or the practice of this policy, on the ground of its conformity to the principles of publick law? Or have you done more at any time, or on any occasion,

than to seek a justification for it on the bare suggestion, that the United States have acquiesced in the measures of England? And how has even this suggestion been maintained? By an exposition of the wrongs inflicted on American commerce! and which have been notoriously practised by all the belligerents in turn. Have not the ships of the United States been encountered by all? Have they not been turned from their original destination? Have they not been dragged into foreign ports for adjudication? Have they not in several instances been burnt on the high seas? Is not the argument, founded on this state of things, equally good for either, or for all the belligerents? And can France derive from it rights which do not equally accrue to her enemies? There is, however, another and a better answer to this suggestion, which your excellency has already seen in the letter I had the honour of writing to you on the 16th of February last, viz. that the suggestion is neither well or plausibly founded; and that the United States neither have submitted, nor will submit, to the usurpations of Great Britain, nor to those of any other nation. Accept, sir, &c.

(Signed)

JOHN ARMSTRONG.

*His Excellency the Minister
of Foreign Relations.*

Extract of a Letter from Gen. Armstrong to Mr. Madison.

“ PARIS, APRIL 12, 1808.

“ I HAVE detained Mr. Lewis till to day, on the supposition that my letter of the 2d instant to M. de Champagny would be answered.... This was, however, a mere accommodation to forms, since the absence of the emperor and that of the minister of foreign relations, rendered this supposition highly improbable. There being then no public reason for Mr. Lewis's longer stay in Paris, and the permission to the Osage to prosecute her voyage to England not including one to return to France, I have thought it best that he should embark with such despatches as were ready, proceed to Falmouth, in England, and thence, after receiving Mr. Pinkney's orders, return with all pos-

able expedition to the United States. He has accordingly been instructed to this effect."

*Extracts of a Letter from the same to the same, dated,
Paris, June 25, 1808.*

"THE St. Michael arrived at L'Orient on the 1st instant, and, like the Osage, was immediately put under sequestration. It was not till the 8th, that Mr. Baker arrived here."

"The remonstrance ordered, with respect to the terms of M. Champagny's letter of the 15th of January, shall be executed the moment the prince of Benevent returns from Valençay; and I hope in a way, which, while it makes the French government sensible of the offensiveness of those terms, will not obstruct the road to friendly and respectful explanations on its part.

"To give this a chance of finding Mr. Livingston at Bordeaux, I must close it here."

The same to the same.

PARIS, JULY 18, 1808.

SIR,

I AVAIL myself of the detention of the *Arcturus*, to transmit copies of two letters, which I have written to M. de Champagny; the one, in execution of the President's orders with regard to the offensive terms, employed by that minister, in his note of the 15th of January last; the other demanding from him, on the part of his government, an avowal or disavowal of the conduct of rear-admiral Baudin, in burning, or otherwise destroying, on the high seas, four American ships and their cargoes. I have the honour to be, sir, with very high consideration, &c.

(Signed)

JOHN ARMSTRONG.

Secretary of State.

*Extract of a Letter from General Armstrong to M.
Champagny, dated Paris, July 4, 1808.*

"It has been made the duty of the undersigned to bring to the view of the French government an official note, ad-

dressed to him on the 15th of January last, by his majesty's minister of exterior relations, and which, in the opinion of the President, is calculated to derogate from the rights of the United States as an independent nation. The note is in the following words, viz. [See M. Champagny's letter of the 15th January, 1808.]

On this note the undersigned would remark, 1st. That the United States have a right to elect their own policy with regard to England, as they have with regard to France; and that it is only while they continue to exercise this right, without suffering any degree of restraint from either power, that they can maintain the independent relation in which they stand to both: whence it follows, that to have pronounced, in the peremptory tone of the preceding note, the effects which the measures of the British government ought to have produced on their councils and conduct, was a language less adapted to accomplish its own object, than to offend against the respect due from one independent nation to another: and

2dly. That the alternative to be found in the last paragraph, and which leaves the United States to choose between an acquiescence in the views of France against Great Britain, and a confiscation of all American property sequestered by order of his imperial majesty, is equally offensive to both governments; to France, as it would impute to her a proposition founded in wrong to individuals; and to the United States, as it would imply, on their part, a subjection to pecuniary interests totally inconsistent with their principles, and highly dishonourable to their character.

His excellency will be persuaded that the President, in directing the undersigned to make this representation, had no object in view beyond that of seeking an explanation, which cannot but tend to promote the harmony of the two powers."

General Armstrong to M. Champagny.

PARIS, JULY 10, 1808.

SIR,

YOUR excellency will see by the enclosed extracts from two letters which his majesty's minister of marine has done me the honour to address to me on the 18th of April and 13th of June last, that the property taken from the four American ships, destroyed by rear admiral Baudin, has been placed under the jurisdiction of the imperial council of prizes, to be judged by it, as a case of ordinary capture.

To your excellency, it will be unnecessary to remark, that whatever may be the decision of this council in relation to the merchandise which has been *saved*, the case presents a question of much higher import, and entirely beyond the jurisdiction of a maritime court, viz. the kind and degree of reparation which shall be due for the ships and merchandise which have been *destroyed*? and by way of opening this subject, your excellency will permit me to ask, whether his majesty's government does or does not justify the conduct of rear admiral Baudin, in burning, or otherwise destroying, on the high seas, the ships and merchandise of a neutral and friendly power?

I pray your excellency, &c.

(Signed)

JOHN ARMSTRONG.

M. CHAMPAGNY.

Extract of a Letter from General Armstrong to the Secretary of State, dated Paris, July 26, 1808.

"It would have given me the highest pleasure to have drawn from this government such explanations, on the general subject of our differences with them, as would have met the friendly and equitable views of the United States; but I owe it, as well to you as to myself, to declare, that every attempt for that purpose, hitherto made, has failed, and under circumstances which by no means indicate any change in their respect for the better."

*Extracts of a Letter from the same to the same, dated
Paris, Aug. 7, 1808.*

"I WROTE a few lines to you yesterday. Two weeks have gone by without any new condemnation. My remonstrances continue to be unanswered."

"P. S. I enclose a copy of my note of yesterday to M. de Champagny."

*Extract of a Letter from General Armstrong to M.
Champagny, dated Paris, Aug. 6, 1808.*

"MR. ARMSTRONG presents his compliments to M. de Champagny, and begs leave to inform him, that having, for some months past made trial of the artificial waters of Tivoli, without any useful effect, his physician has prescribed for him those of Bourbon d'Archambault. Should M. de Champagny have any communication to make to Mr. Armstrong, he will be pleased to address them as usual to the hôtel de Légation Américaine, Rue Vanguard, No. 100, whence they will be regularly and promptly transmitted to Bourbon.

On leaving Paris, Mr. Armstrong thinks proper to state his regrets, that the political relations of the two powers should continue to wear an aspect less auspicious to their future good understanding, than is wished for by those who are the friends of both.

That his majesty has a right to make such municipal regulations as he may deem proper with regard to foreign commerce, neither is, nor has been denied: for example, he may forbid the entry into the ports of France of American ships which have touched in England, or been destined to England, and he may either sequester or confiscate such vessels of the United States as shall infract these laws, after due promulgation and notice thereof; but beyond this the United States hope and believe that his majesty will not go.

M. de Champagny will not fail to seize the distinction which these remarks present, between the authority of

municipal regulations, and that of publick law, and will decide whether it does or does not offer a ground on which the good understanding, so long and so usefully maintained between the United States and France, may be preserved, and a degree of intercourse between them revived, which shall have the effect of reanimating their former industry.

Does his majesty fear, that the balance of trade, arising from this renewed industry, would go to the advantage of England? Means are certainly not wanting to prevent this consequence. Would it not be entirely avoided by making it a condition of the commerce in question, that all ships leaving France shall take (in some article or articles of her produce or manufacture) the full amount of the cargoes they bring hither?

Ships, sailing under this regulation, would, or would not, go voluntarily to England. If they went voluntarily, it would only be, because that country afforded the best markets for the productions of France; in which case the habitual results would be entirely changed, and England, ceasing to receive a balance for her manufactures, would begin to pay one to the United States on the productions of France. Could France wish a state of commerce more prosperous than this?

If, on the other hand, the American ships did not go voluntarily to England, but were captured and sent in for adjudication, it may be fairly presumed, that the United States could no longer hesitate about becoming a party to the war against England.

Thus, in either case, the interests of his majesty would be directly advanced by the measure: in the one, the wants of France and her colonies would be not only regularly supplied, but she would herself become an entrepot for the supply of the continent; in the other, the wishes of his majesty, as expressed in February last, would be directly promoted.

Mr. Armstrong has the honour of renewing to M. de Champagny the assurances of his very high consideration."

*Extract of a Letter from the same to the Secretary of State,
dated Bourbon l'Archambault, August 28, 1808.*

"Since my arrival at this place I have been honoured by the receipt of your despatch of the 21st ult. and would immediately return to Paris, to renew my discussions with M. de Champagny, either personally, as you suggest, or by writing, had I not the most solemn conviction, that any new experiment, made at the present moment, in either form, and of official character, would certainly be useless and probably injurious."

*Extracts of a Letter from Mr. Madison, Secretary of
State, to Mr. Pinkney, minister of the United States
at London, dated Department of State, Dec. 28, 1807.*

"MR. ERSKINE having been so good as to let me know that the mail of this evening will carry his despatches for a British packet, which will sail from New York immediately on their arrival there, and other conveyances now failing, I avail myself of the opportunity, to enclose you a copy of a message from the President to Congress, and their act in pursuance of it, laying an immediate embargo on our vessels and exports. The policy and the causes of the measure, are explained in the message itself. But it may be proper to authorize you to assure the British government, as has been just expressed to its minister here, that the act is a measure of precaution only, called for by the occasion; that it is to be considered as neither hostile in its character, nor as justifying, or inviting or leading to hostility with any nation whatever, and particularly as opposing no obstacle whatever to amicable negotiations and satisfactory adjustments with Great Britain, on the subjects of difference between the two countries.

The suddenness of the present opportunity does not allow me time to add more than a newspaper, containing a part of the proceedings of Congress in relation to the embargo."

"P. S. As you may be able to find conveyances to Paris, whither none will for some time offer hence, I request the

favour of you to communicate to general Armstrong the contents of this letter, and through him, or otherwise, to Mr. Erving at Madrid."

Extrait from the same to the same, dated Department of State, Feb. 19, 1808.

"A VESSEL having been engaged to carry from the port of New York publick despatches and mercantile letters to Europe, I avail myself of the opportunity of forwarding you a series of gazettes, which contain the proceedings of Congress, and such current information as will give you a view of our internal affairs. They will be put, with this letter, into the hands of Mr. Nourse, a passenger in the despatch vessel, who will deliver them at London; and as the vessel, which will have previously touched at L'Orient, will, after waiting ten or twelve days at Falmouth, return to that port, and thence to the United States, you will have an opportunity of sending thither any communications you may wish to make to Paris, as well as of transmitting to your government such as may follow up your correspondence, which, at the present period, will be the more acceptable, the more it be frequent and full.

"My last, which was committed to the British packet, enclosed a copy of the act of embargo, and explained the policy of the measure. Among the considerations which enforced it, was the probability of such decrees as were issued by the British government on the 11th of November; the language of the British gazettes, with other indications, having left little doubt that such were meditated. The appearance of these decrees has had much effect in reconciling all descriptions among us to the embargo, and in fixing in the friends of the measure their attachment to its provident guardianship of our maritime interests.

Mr. Erskine communicated, a few days ago, the several late decrees of his government, with expressions of the regret felt by his Britannic majesty at the necessity imposed on him for such an interference with neutral commerce, and assurances, that his majesty would readily

follow the example, in case the Berlin decree should be rescinded, or would proceed, *pari passu*, with France, in relaxing the rigour of their measures. Mr. Erskine was asked, whether his government distinguished between the operation of the French decree, municipally on land, and its operation on the high seas? On this point he was unable to answer; as he also was to an inquiry, whether the late British decrees had reference to the late extension of the French decree with respect to the United States? He seemed also, as is perhaps the case with his government, to have taken very little into consideration the violations of neutral commerce, and through them the vast injury to France antecedent to the Berlin decree. It is probable that something further is to pass between us on this subject."

Extract of a Letter from the same to the same.

DEPARTMENT OF STATE, MARCH 8, 1808.

"HAVING just learnt that the present mail will arrive at New York in time for the British packet, I avail myself of the opportunity of forwarding your commission and letters of credence, as successor to Mr. Monroe, in the legation at London.

Since my last, which went by Mr. Nourse in a despatch vessel, bound first to L'Orient, and then to Falmouth, I have received your communication of the 23d November and of December. These, with a representation from general Armstrong to the French government, on the subject of the decree of Berlin, as expounded and enforced in the case of the ship *Horizon*, were thought by the President to throw so much light on the course likely to be pursued by Great Britain and France, in relation to the United States, that he had the documents confidentially laid before Congress.

Mr. Erskine has made a written communication on the subject of the British orders. I shall answer him as soon as the very urgent business on hand will permit."

*Extract of a Letter from the same to the same, dated
Department of State, March 22, 1808.*

"My last bears date the 8th instant, and went by the British packet. It acknowledged your letter of November 23, and of December. I have since received those referred to in the letter, and also that of January 26, which came to hand last evening.

"I cannot enclose my answer to Mr. Erskine's communication of the British orders; the unceasing pressure of other matters, on a state of health still feeble, having thus far delayed it. You will anticipate the complexion which will necessarily be given to it by the character of measures, not only violating our rights, and stabbing our interests, but superadding, under the name of indulgences, a blow at our national independence, and a mockery of our understandings."

Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, APRIL 4, 1808.

SIR,

My last was of March 22, and went under the care of Mr. Rose. I now forward printed copies of the correspondence with him on the subject of his mission, and of the antecedent documents relating to the case of the Chesapeake. As soon as the voluminous residue of the communications made to Congress issues from the press, it shall also be forwarded. You will find that they include certain documents relating to France, which were thought proper for the knowledge of Congress at the present crisis.

To these communications I add copies of Mr. Erskine's letter to me on the subject of the British decrees of November last, and of my answer. And that you may have a view of the ground which has been taken with respect to the French decree of November, 1806, and to the judicial exposition in the case of the *Horizon*, giving to it an illegal operation against the United States, I enclose copies of two letters to general Armstrong on those subjects.

The President made to Congress, a few days ago, other communications relating to the present crisis with Great Britain and France, among which were Mr. Erskine's letter, now enclosed, and a letter from M. Champagny to general Armstrong, explaining the course meditated by the French government with respect to the commerce of the United States. These, being excepted from the confidential character attached to the others, have been published, and will be found among the printed enclosures. Your letter of February 26 was included in the communications to Congress, but not in the exception.

The conduct of the two great contending nations towards this country, as it will now appear to it and to the world, fully displays their mutual efforts to draw the United States into a war with their adversary. The efforts on both sides are too little disguised to be worthy the discernment of either, and are addressed moreover to motives which prove great ignorance of the character of the United States, and indeed of human nature.

From the posture in which Mr. Rose's final reply to the compromise proposed to him placed the question of adjustment in the case of the Chesapeake, it remains with the British government to resume it, if adjustment be their object. Whether a tender of reparation will be made here, or to you, will also lie on that side. It will certainly be most becoming that government, under all circumstances, to make the reparation here; and this course might of right be insisted on by this government. The President, nevertheless, in the liberal spirit which always governs him, authorizes you to accept the reparation, provided it be tendered spontaneously, be charged with no condition, unless it be that, on the receipt of the act of reparation here, the proclamation of July 2d shall be revoked: and provided the reparation shall add, to the disavowal of the attack on the Chesapeake, an express engagement that the seamen retained shall be immediately restored, and that the guilty officer experience an exemplary punishment. The reparation will be the more satisfactory, and not

exceed a just expectation, if the restoration of the seamen be made to the very ship from which they were wrested, and if provision be made for the wounded survivors, and for the families of those who lost their lives by the attack.

I must repeat, however, that it is considered entirely proper, that the reparation should be offered here, rather than in London, and it is only in the event of a decided repugnance in the British government to make it through a functionary here, that you are to accept it there.

The answer to Mr. Erskine's letter on the British orders, will furnish the grounds to be taken in your communications with his government on that subject. If the cabinet can be brought to view the orders in their true light, a revocation of the whole of them cannot fail to take place, unless they mean to violate every maxim of justice, or are fixed in hostile purposes against the United States. In not regarding the orders, indeed, as acts of hostility, and in trusting for redress to the motives and the means, to which they have appealed, the United States have given the most signal proof of their love of peace, and of their desire to avoid an interruption of it with the British nation.

Still it is to be understood, that whilst the insult offered in the attack on the American frigate remains unexpiated, you are not to pledge, or commit your government, to consider a recall of the orders as a ground on which a removal of the existing restrictions on the commerce of the United States with Great Britain may be justly expected.

The two letters to General Armstrong, of the 22d May, 1807, and February 8th, 1808, are proofs of the sincerity and impartiality with which the President has proceeded in relation to the belligerent parties, and may, perhaps, assist you in repressing unjust suspicions, imbibed by the British cabinet. It would be happy for all parties, the belligerents as well as the United States, if truth could, in this case, be made to prevail; and if the retaliating rivalry of the former against the latter could be converted into an emulation, as politic as it would be mag-

unanimous in both, to take the lead in a fair, lawful, and conciliatory course, towards a nation which has done no wrong to either. Should the experiment be made on either side, it would probably be followed on the other; and it could never happen, that the side first doing justice would suffer on that account.

In the present state of our relations to Great Britain, it would be premature to mark out the course to be pursued with respect to further negotiations on other topics than those above noticed. You are authorized, however, to continue your interpositions in behalf of our impressed or *detained* seamen; and in the event of a repeal of the British orders, and of satisfactory pledges for repairing the aggression on the Chesapeake, to enter into informal arrangements for abolishing impressments altogether, and mutually discontinuing to receive the seamen of each other, into either military or merchant service, conformably to the instructions on this point transmitted by Mr. Purviance.

You will find by a passage in Mr. Rose's reply of March 17, that the British government does not maintain the principle, that the obligation of the United States extends beyond the discharge of deserters from their publick service; and by an order of the navy department here, already carried into execution, of which a copy is enclosed, that it has lately been decided, that no foreign seamen, whether deserters or not, shall serve on board our ships of war. The principles respectively manifested by these documents, ought to facilitate such an adjustment as is contended for by the United States.

I have the honour to be, &c.

(Signed)

JAMES MADISON.

WILLIAM PINKNEY, Esq. Minister plenipotentiary United States—London.

*Extract of a Letter from the same to the same, dated
Department of State, April 30, 1808.*

"MY last was of the 4th inst. and went by a British packet from New York. I now forward a copy of it.

Congress ended their session on the night of the 25th instant. The series of newspapers, herewith sent, affords a view of their proceedings subsequent to the communications last made to you. Some other prints are included, which throw light on the workings of publick opinion and the state of publick affairs.

You will find that the critical posture of our foreign relations has produced provisions of different kinds for our greater security; and particularly that no pains have been spared to stop every leak by which the effect of the embargo laws might be diminished. I refer you also to the report made to the senate by a committee on the documents relating to the affair of the Chesapeake, and on the letters of M. Champagny and Mr. Erskine; and indicating the spirit which may be expected to influence the future policy of this country, if kept under the excitement resulting from the system now pursued against it.

You will observe at the same time, that whilst a determination is sufficiently evinced against a dishonourable acquiescence in the despotick edicts enforced on the high seas, the United States are ready to resume their export trade as soon as the aggressions on it shall cease; and that in a hope that this might happen during the recess of Congress, the President is authorized, in such an event, to suspend, in whole or in part, the several embargo laws.

The conditions on which the authority is to be exercised, appeal equally to the justice and policy of the two great belligerent powers, which are now emulating each other in a violation of both. The President counts on your endeavours to give to this appeal all the effect possible with the British government. General Armstrong will be doing the same with that of France. The relation in which a

revocation of its unjust decrees by either, will place the United States to the other, is obvious; and ought to be a motive to the measure, proportioned to the desire which has been manifested by each to produce collision between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

Should the French government revoke so much of its decrees as violate our neutral rights, or give explanations and assurances having the like effect, and emitting it therefore to a removal of the embargo as it applies to France, it will be impossible to view a perseverance of Great Britain in her retaliating orders, in any other light than that of war, without even the pretext now assumed by her.

In order to entitle the British government to a discontinuance of the embargo, as it applies to Great Britain, it is evident that all its decrees, as well those of January, 1807; as of November, 1807, ought to be rescinded, as they apply to the United States; and this is the rather to be looked for from the present administration, as it has so strenuously contended that the decrees of both dates were founded on the same principles, and directed to the same object.

Should the British government take this course, you may authorize an expectation that the President will, within a reasonable time, give effect to the authority vested in him on the subject of the embargo laws.

Should the orders be rescinded in part only, it must be left to his free judgment to decide on the case. In either event, you will lose no time in transmitting the information to this department and to general Armstrong; and particularly in the event of such a course being taken by the British government, as will render a suspension of the embargo certain or probable, it will be proper for you to make the communication by a courier to general Armstrong, to whom a correspondent instruction will be given, and to provide a special conveyance for it hither, unless British arrangement shall present an opportunity equally certain and expeditious."

Extract of a Letter from Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, JULY 18, 1808.

"Your communications by Lieutenant Lewis were safely delivered on the evening of the 8th inst.

As it had been calculated that the interval between the return of Mr. Rose, and the departure of Lieutenant Lewis, would give sufficient time to the British government to decide on the course required by the posture in which the affair of the Chesapeake was left, its silence to you on that subject could not fail to excite the particular attention of the President: and the appearance is rendered the more unfavourable by the like silence, as we learn from Mr. Erskine, of the despatches brought to him by the packet which left England and arrived at New York at nearly the same time with the Osage. I have intimated to Mr. Erskine the impressions made by this reserve, without, however, concealing our hope that the delay does not imply a final purpose of withholding reparation, and that the next communications from London will be of a different import. They must at least ascertain the real views of the British government on this interesting subject."

"There was certainly no just ground for Mr. Canning to expect any particular communications from you on the arrival of the Osage, unless they should have grown out of such accounts from France as would second our demands of justice from Great Britain, particularly the revocation of her orders in council: and in imparting to him what you did from that quarter, every proof of candour was given which the occasion admitted.

If Mr. Canning was disappointed, because he did not receive fresh complaints against the orders in council, he ought to have recollected, that you had sufficiently dwelt on their offensive features, in the first instance; and that as he had chosen to make the formal communication of them to this government through another channel, it was through that channel, rather than through you, that answers to it would be most regularly given."

"The communications and instructions forwarded by Mr. Purviance, who was a passenger in the *St. Michael*, will enable you to bring the British government to a fair issue on the subject of its orders. If it has nothing more in view than it is willing to avow, it cannot refuse to concur in an arrangement, rescinding, on her part, the orders in council; and on ours, the embargo. If France should concur in a like arrangement, the state of things will be restored, which is the alleged object of the orders. If France does not concur, the orders will be better enforced by the continuance of the embargo against her, than they are by the British fleets and cruisers, and in the mean time, all the benefits of our trade will be thrown into the lap of Great Britain. It will be difficult, therefore, to conceive any motive in Great Britain to reject the offer which you will have made, other than the hope of inducing, on the part of France, a perseverance in her irritating policy towards the United States, and, on the part of the latter, hostile resentments against it.

If the British government should have elected the more wise and more worthy course, of meeting the overture of the President, in the spirit which dictated it, it is to be hoped, that measures will have been taken in concert with you, and through its minister here, for hastening, as much as possible, the renewal of the intercourse, which the orders and the embargo have suspended; and thereby smoothing the way for other salutary adjustments.

It appears that the British government, not satisfied with the general blockade, by her orders of November 11th, has superadded a particular blockade, or rather a diplomatic notification of an intended one, of Copenhagen, and *the other ports* in the island of Zealand; that is to say, a strict and legal blockade of the whole island. The island cannot be much less than two hundred miles in its outline, and is described as abounding in inlets. It is not probable, therefore, if it be possible, that the blockade, within the true definition, should be carried into effect. And as all defective blockades, whether so in the disproportion of

force to the object, or in the mode of notification, will authorize fair claims of indemnification, it is the more necessary that guarded answers should be given, in such cases, as heretofore suggested.

Since the British order of evidently inviting our citizens to violate the laws of their country, by patronising on the high seas their vessels destitute of registers, and other necessary papers, and therefore necessarily smugglers, if not pirates, the circular letter of Mr. Huskisson has made its appearance ; in which the United States are named as alone within the purview of the order. A more extraordinary experiment is perhaps not to be found in the annals of modern transactions. It is levelled, moreover, against a nation towards which friendship is professed, as well as against a law, the justice and validity of which are not contested ; and it sets the odious example, in the face of the world, directly in opposition to all the principles which the British government has been proclaiming to it. What becomes of the charge against the United States for receiving British subjects who leave their own country contrary to their allegiance ? What would be the charge against them, if they were, by proclamation, to invite British subjects, those too expressly and particularly prohibited from leaving their country, to elude the prohibition ; or to tempt, by interested inducements, a smuggling violation or evasion of laws on which Great Britain founds so material a part of her national policy ? In the midst of so many more important topics of dissatisfaction, this may not be worth a formal representation. But it will not be amiss to let that government understand the light in which the proceeding is regarded by this. I have already touched on it to Mr. Erskine, with an intimation that I should not omit it in my observations to you."

"The French decree, said to have been issued at Bayonne, has not yet reached this country. Such a decree, at such a time has a serious aspect on the relations of the two countries, and will form a heavy item in our demands of redress. It is much to be regretted, at the same time, that

any of our vessels, by neglecting to return home, and conforming to the arbitrary regulations of one belligerent, should expose themselves to the arbitrary proceedings of another. So strong and general an indignation seems particularly to prevail here against the Americans in Europe, who are trading under British licenses, and thereby sacrificing, as far as they can, the independence of their country, as well as frustrating the laws which were intended to guard American vessels and mariners from the dangers incident to foreign commerce, that their continuance in that career ought to be frowned upon, and their return home promoted in every proper manner. It appears by information from our consul at Tangier, that great numbers of our vessels are engaged in a trade between Great Britain and Spanish ports, under licenses from the former, and that the experiment proves as unsuccessful as it is dishonourable; the greater part of them being either arrested in port, or by French and Spanish cruisers."

Mr. Pinkney to Mr. Madison.

LONDON, FEB. 23, 1808.

SIR,

MR. CANNING has just sent me a note, of which a copy is enclosed, relative to an intended alteration, upon the subject of cotton, in their bill for carrying into execution the late orders in council. You will perceive, that he lays some stress upon the accidental observations, which (as already explained to you in my letter of the 26th of last month) were drawn from me, some time since, upon the singularly offensive project of imposing a transit duty upon our cotton. I mentioned to you in my letter of the 2d inst. that he appeared to have misapprehended the tendency of these observations, and that, in a subsequent conversation, he showed a disposition to remove this obnoxious feature from their plan, for the purpose of substituting an absolute interdict of the export of that article, under an idea that we should then cease to object to it; but that I thought it my duty to decline to give him any encouragement to do so,

although I agreed, as he seemed to wish it, to mention his disposition to you. A few days ago, he sent for me again, and renewed his proposal, of an immediate change, with respect to cotton, from a prohibitory duty, to a direct prohibition. My answer was the same in substance as it had been before. He then suggested the alternative arrangement, which you will see stated in his note; but, adhering to the determination I had formed, upon the first appearance of the orders in council, to make no compromise (without precise directions from my government) with the system which they announce, by becoming a party to its details, I received this proposal as I had done the other.

The British government, however, had resolved to adopt this last mentioned plan, whether it received my concurrence or not, upon a presumption, that it would be more acceptable to us, and, perhaps, too, under the idea, that it was more defensible than their original scheme; and the purpose of Mr. Canning's note is merely to signify to me, in a manner as friendly and respectful as possible to the United States, their intention to propose it to parliament. One object of all this is, certainly, to conciliate us, although it may be another, to free their system, as far as they can, from the disadvantage of one of the formidable reproaches which their opponents cast upon it. But the wise and magnanimous course would be, at once to tread back their steps upon the whole of this ill-judged measure, instead of relying upon small and unsubstantial modifications, which neither produce an effect upon its character and principle, nor mitigate the severity of its practical consequences. I might, if I thought it advisable, take the occasion, which Mr. Canning's note undoubtedly furnishes, to press upon him, once more, the policy, as well as the justice of such a course; but I believe it, under all circumstances, to be more prudent to wait for your instructions, which must, I think, be very soon received.

I have already had the honour to send you two copies of the resolutions moved in the house of commons by the chancellor of the exchequer, as tables of export duties, to

which their bill should refer. I have enclosed in another letter, with which this will be accompanied, a copy of the bill itself, which will, however, undergo several alterations. These will be found to be explained (as far as I am acquainted with them) in the letter above mentioned.

I have the honour to be, &c.

(Signed)

WILLIAM PINKNEY.

Hon. JAMES MADISON, Secretary of State.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, FEB. 22, 1808.

SIR,

I HAVE already had the honour of assuring you in conversation, of the disposition which is felt by the British government, to give due weight to the observations which you have made to me, respecting the unfavourable impression likely (in your opinion) to be excited in the United States, by the duty proposed to be levied upon cotton, destined for the use of the enemy, but brought into the ports of this country, conformably to the tenour of the orders of council of the 11th of November last.

You are already apprized, that the principle, upon which the whole of this measure has been framed, is that of refusing to the enemy those advantages of commerce which he has forbidden to this country.

The simple method of enforcing this system of retaliation, would have been to follow the example of the enemy, by prohibiting altogether all commercial intercourse between him and other states.

It was from considerations of indulgence to neutral trade, that the more mitigated measure of permitting intercourse under the restraints and regulations of a duty, in transitu, was adopted; and being adopted with this view, it was not immediately felt by the British government, that there might be a distinction, taken by neutral states, with respect to articles the produce of their own soil, and that while the commutation of prohibition into duty was acknowledged as an indulgence, when applied to articles of

foreign commerce, of which they were only the carriers, it might be considered as an invidious imposition when applied to their own productions.

The moment that this distinction has been explained to the British government, they have been desirous of manifesting every attention to it; and if you, sir, had been possessed of the necessary authority from your government, there would have been no difficulty in entering into a specific agreement with you upon the subject. In order, however, to obviate the objection, in a great degree, I have the honour to inform you, that it is intended to be proposed to parliament, that all cotton, brought into this country, in conformity to the orders of council, should be absolutely prohibited from being exported to the territories of the enemy. But as you are not prepared to take upon yourself to say, that in no case the option would be acceptable, an option will still be left to the neutral owner, either to acquiesce in the total prohibition, or to re-export the article, on the payment of such a duty as parliament may judge it expedient to impose.

I flatter myself, sir, that this alteration in the legislative regulations, by which the orders of council are intended to be carried into execution, will be considered by you as a satisfactory evidence of the disposition of his majesty's government to consult the feelings as well as the interests of the United States, in any manner which may not impair the effect of that measure of commercial restriction, to which the necessity of repelling the injustice of his enemies has obliged his majesty, reluctantly, to have recourse.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

WILLIAM PINKNEY, Esq. &c. &c. &c.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, FEB. 23, 1808.

MR. PINKNEY presents his compliments to his excellency, Mr. Canning, and has the honour to acknowledge the

receipt of his note of yesterday, relative to an alteration on the subject of cotton, in the legislative regulations, by which the late orders in council are intended to be carried into execution, which Mr. Pinkney will hasten to transmit to his government.

Mr. Pinkney requests Mr. Canning to accept the assurances of his high consideration.

Mr. Pinkney to Mr. Madison.

[EXTRACTS.]

LONDON, MAY 9, 1808.

"I HAD a conversation with Mr. Canning on Friday last, in consequence of the arrival of the Osage.

As it was obviously expected that I should seek an interview with him, I went to Downing street on the 5th with that object. He had been indisposed, and was not at the office; but in answer to a note which I sent him in the evening, he asked to see me next day at his house in Bruton street.

The Osage had for some time been looked for with considerable anxiety, and the government had apparently anticipated a communication (and perhaps a proposal) of some importance, from me, as soon as my despatches should be received. As I had, in fact, no communication to make, it seemed to be proper that I should render the disappointment of as little moment as possible, by the manner of announcing it, without, however, putting any thing to hazard by an indiscreet manifestation of unnecessary solicitude.

The little which I supposed it requisite to say on this occasion appeared to be very well received: and, if any disagreeable impression was left on the mind of Mr. Canning, it certainly was not visible. A feeling of regret was perhaps perceptible, and a hope was intimated that the time was not far distant, when I should be enabled to do what, at present, was out of my power; but nothing occurred which could be construed into a symptom of impa-

tiouss, jealousy, or dissatisfaction. There was, undoubtedly, no real ground for any thing of this sort; but it was, notwithstanding, quite possible that the importance, which it had become a habit to attach to the arrival of the Osage, from circumstances principally accidental, might have produced a disposition to think otherwise.

I thought it advisable to make use of this opportunity (although the topic was, in many views, more delicate than it had been) to suggest the propriety of yielding, as the moment was sufficiently favourable to such a course, upon the subject of the late orders in council, of which I had seen nothing to change my original opinion. There was reason to apprehend, however, that it might be worse than useless to press the suggestion, upon my own authority merely, while I could say nothing of the French decrees: and, accordingly, I forbore to do so.

An idea has evidently gone forth, since the Osage arrived, founded upon rumours of a doubtful description, that our relations with France have grown to be extremely precarious, and that we are consequently about to come to an understanding of a very friendly kind with G. Britain. It is not improbable that the government has, in some degree at least, adopted this idea.

I have the honour to enclose a copy of a notification, recently received from Mr. Canning, of the blockade of Copenhagen, and of the other ports in the island of Zealand, which I have caused to be communicated in the usual manner, to our consuls and citizens."

"There being no particular inducement for detaining the Osage, lieutenant Lewis, who will be charged with my letters, will leave town the day after to-morrow; and the ship will sail as soon after he reaches Falmouth as possible."

[NOTIFICATION.]

Mr. Canning to Mr. Pinkney.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's com-

mand to acquaint Mr. Pinkney, that his majesty has judged it expedient to establish the most rigorous blockade of the port of Copenhagen, and of all the other ports in the island of Zealand. Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of all the ports abovementioned are, and must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will be adapted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

(Signed)

GEORGE CANNING.

Foreign Office, May 4, 1808.

Extract of a Letter from Mr. Pinkney to the Secretary of State of the United States, dated London, June 5, 1808.

“ I HAVE the honour to acknowledge the receipt of your letter of the 4th of April, by Mr. Bethune, together with the printed and other copies of papers mentioned in it.

I am to have an interview with Mr. Canning in a few days (which he will agree to consider extra official) in the course of which I intend to press, by every argument in my power, the propriety of their abandoning immediately their orders in council, and of proposing in America (the only becoming course, as you very properly suggest) reparation for the outrage on the Chesapeake. I shall for obvious reasons do this, informally, as my own act.

Your unanswerable reply to Mr. Erskine's letter of the 23d February, has left nothing to be urged against the orders in council upon the score of right; and there may be room to hope that the effect, which that reply can hardly have failed to produce upon ministers, as well by its tone as by its reasoning, will, if followed up, become under actual circumstances, decisive. The discussion, which Mr.

Rose's preliminary in the affair of the Chesapeake, has undergone, gives encouragement to an expectation, that this government will not now be backward to relinquish it, and to renew their overture of satisfaction in a way more consistent with reason, and more likely to produce a just and honourable result.

You may be assured that I will not commit our government by any thing I shall do or say, and that, if I cannot make things better than they are, I will not make them worse.

My view of the course which our honour and our interests have required, and still require, is, as you know, in precise conformity with that of the President; but if it were otherwise, I should make his view, and not my own, the rule of my conduct."

Extracts of a Letter from Mr. Pinkney to Mr. Madison.

LONDON, AUGUST 4, 1808.

"THE St. Michael arrived at Falmouth on Thursday the 14th of last month, after a passage of eight days from L'Orient. Captain Kenyon delivered to me on Wednesday, the 20th (upon my arrival in town from Brighton, where I had been for a short time on account of my health) your letters of the 30 of April, and your private letter of the 1st of May, together with newspapers, printed copies of the Embargo act and its supplements, and of papers laid before Congress at their last session. Mr. Hall brought me a letter from general Armstrong of the 26th of June, (of which I send an extract) and Mr. Upson brought me a private letter from him with the following postscript of the first of July. "An order has been received from Bayonne to condemn eight other of our ships."

On Friday the 22d of July, I had an interview with Mr. Canning, and renewed my efforts to obtain a revocation of the British orders of January and November, 1807, and of the other orders dependent upon them. I have already informed you in my private letter of the 29th of June,

that on the morning of its date, I had a long conversation with Mr. Canning, which had rendered it somewhat probable that the object mentioned in your letter of the 30th of April, (of which I had received a duplicate by the packet) would be accomplished, if I should authorize the expectation which that letter suggests; but that some days must elapse before I could speak with any thing like certainty on the subject: and I have mentioned in another private letter (of the 10th of July) that it was understood between Mr. Canning and myself, that another interview should take place soon after the prorogation of parliament. In effect, however, Mr. Canning was not prepared to see me again, until the 22d of July, after I had been recalled to London by the arrival of the *St. Michael*, and had, in consequence, reminded him of our arrangement by a private note.

In the interview of the 29th of June, I soon found it necessary to throw out an intimation, that the power vested in the President by Congress, to suspend the embargo act and its supplements, would be exercised as regarded Great Britain, if their orders were repealed, as regarded the United States. To have urged the revocation, upon the mere ground of strict right, or of general policy, and there to have left the subject, when I was authorized to place it upon grounds infinitely stronger, would have been, as it appeared to me, to stop short of my duty. Your letters to Mr. Erskine (which Mr. Canning has read and considered) had exhausted the first of these grounds; and endless discussions here, in every variety of form, in and out of parliament, had exhausted the second. There was, besides, no objection of any force, to my availing myself, without delay, of the powerful inducements, which the intimation in question was likely to furnish to Great Britain, to abandon her late system; and it seemed to be certain that, by delaying to present these inducements to Mr. Canning's consideration, I should not only lose much time, but finally give to my conduct a disingenuous air, which, while it must be foreign to the views and senti-

ments of the President, could hardly fail to make a very unfavourable impression upon the minds of Mr. Canning and his colleagues. I thought, moreover, that if I should reserve the suggestion for a late stage of our discussions, it would be made to wear the appearance of a concession reluctantly extorted, rather than of what it was, the spontaneous result of the characteristic frankness and honourable policy of our government.

The intimation once made, a complete development of its natural consequences, if properly acted upon, followed of course; and taking advantage of the latitude afforded by the informal nature of a mere conversation, I endeavoured to make that development as strong an appeal as, consistently with truth and honour I could, (and there was no necessity to do more) to the justice and the prudence of this government.

It was not possible, however, that Mr. Canning could require to be assisted by my explanations. It was plain, upon their own principles, that they could not equitably persevere in their orders in council, upon the foundation of an imputed acquiescence, on our part, in French invasions of our neutral rights, when it was become (if it was not always) apparent, that this imputation was completely and in all respects an error; when it was manifest that these orders, by letting loose upon our rights a more destructive and offensive persecution than it was in the power of France to maintain, interposed between us and France, furnished answers to our remonstrances against her decrees and pretexts for those decrees, and stood in the way of that very resistance which Great Britain affected to inculcate, as a duty, at the moment when she was taking the most effectual measures to embarrass and confound it; and when it was also manifest, that a revocation of those orders would, if not attended or followed by a revocation of the decrees of France, place us at issue with that power, and result in a precise opposition, by the United States, to such parts of her anti-commercial edicts as it became us to repel.

In a prudential view my explanations seemed still less to be required. Nothing could be more clear than that, if Great Britain revoked her orders, and entitled herself to a suspension of the embargo, her object, (if it were any thing short of the establishment and practical support of an exclusive dominion over the seas) must, in some mode or other, be accomplished, whether France followed her example, or not. In the first case, the avowed purpose of the British orders would be fulfilled, and commerce would resume its accustomed prosperity and expansion. In the last, the just resistance of the United States (more efficacious than that of the British orders) to French irregularities and aggressions, would be left to its fair operation (and it was impossible to mistake the consequences,) while the commercial intercourse between the United States and Great Britain, being revived, would open the way for a return to good understanding, and, in the end, for an adjustment of all their differences."

"On the 29th of July I met Mr. Canning again, and was soon apprized that our discussions, if continued at all, must take a new form."

"As there is now no reason for detaining the *St. Michael*, she will be despatched immediately for *L'Orient*."

[EXTRACT.]

Mr. Pinkney to Mr. Madison.

LONDON, SEPT. 6, 1808.

"I HAVE an opportunity of writing by Mr. Bethune, who leaves town to-morrow for Falmouth, to embark for the United States in the British packet; and I cannot omit to take advantage of it, although I have still nothing conclusive to communicate.

The *Hope* arrived off Falmouth, and landed Mr. Atwater, on the 16th of last month, and immediately proceeded on her voyage to Havre, with a fair wind. Mr. Atwater arrived in London on the 20th, in the evening, and delivered your letter of the 18th of July.

My publick letter of the 4th of August will have apprized you of the footing on which my different interviews with Mr. Canning left the subject of the British orders in council; and my private letter of the 2d of that month, will have made you acquainted with my intention to present, in an official note, what I had ineffectually suggested in conference.

To such a course there could not, even in the first instance, have been any other objection than that it was calculated to lead to discussion, rather than to adjustment; but, whatever might be its tendency, it is certain, that I could have no inducement to resort to it, until it was indicated by Mr. Canning as indispensable, nor any motive to decline it, afterwards.

At our last interview, and not before, it was unexpectedly found, that it was in that mode only, that I could obtain a knowledge of the light in which this government thought fit to view the overture I had been directed to make to it; and I determined, in consequence, to lay before it, in writing, the intentions of the President, with the same frankness which had characterized my verbal communications.

I have now the honour to transmit a copy of the note, which, in conformity with that determination, I delivered in person to Mr. Canning on the 26th of last month, a few days after its date. To this note no answer has yet been returned; but it is to be presumed, that it will not be much longer withheld.

You will perceive, that some time had elapsed, after I had sent off my despatches by the St. Michael, (the 8th of August) before my note was presented. The truth is, that I had employed a part of that time in framing a note of great length, which, when nearly completed, I thought it prudent to abandon, in favour of one that held out fewer invitations to unprofitable discussions, which, although I would not shun them, if pressed upon me, I did not suppose it proper that I should seek.

I believed, too, that a little delay on my part would be far from being disadvantageous. There would still be suf-

ficient time for obtaining a final answer to my proposal, in season for the meeting of Congress; and as the temper of this government, so far as it had been tried, had not appeared to be favourable to my purpose, I believed that I should act in the spirit of my instructions, and consult the honour of my government, by avoiding, under such circumstances, the appearance of urgency and precipitation.

Upon the terms or general plan of my note, it is not, I hope, necessary to remark. You will discover, that it was prepared under a persuasion that, whatever might be its effect, it was infinitely better to make it as conciliatory as, without a sacrifice of principle or national dignity, was possible.

The topics to be embraced by it were such as did not demand, but rather forbade, minute exposition. While it was difficult to urge, in their full force, without seeming to aim at exciting a disposition unfriendly to the object of my instructions, all the considerations which justified the United States in remonstrating against the British orders, it was yet more difficult, without a degree of harshness, scarcely suited to the occasion, and without also the hazard of indiscretion, to display in detail the signal injustice and impolicy of persevering in them, after what I had proposed. This could be done, and had been done in conversation; but it did not, upon trial, appear to be equally practicable, in the more formal and measured proceeding which I was now called upon to adopt.

I considered, besides, that an overture, so highly advantageous to Great Britain, which the United States were not bound to make by any obligations of equity, although it was wise to make it, did not require, with any view to the character of my country, or even to the success of the overture itself, to be again recommended, by an anxious repetition of arguments already fully understood.

As soon as my note was prepared, I called at the foreign office to arrange an interview with Mr. Canning for the purpose of enabling me to accompany the delivery of it with a communication, which I deemed important, as well

as of affording him an opportunity of asking and receiving such explanations as he might desire. The interview took place on the 26th of August.

It had occurred to me that it would be proper (and could not be injurious) to read to Mr. Canning, from your letter to me of the 18th of July, a brief summary of the instructions under which I was acting. This had not been requested; but it could not be unacceptable, and it was, besides, well calculated to do justice to the liberal sentiments by which my instructions had been dictated, as well as to give weight to my efforts in the execution of them.

I was led, by the reading of these passages, (without having originally intended it) into a more extensive explanation, than I had before attempted, of the influence which the proposal of my government would have, in truth, as well as in the judgment of the world, upon the supposed justice of their new system, as it affected the United States. To that explanation, with the particulars of which I will not, and indeed, for want of time, cannot, at present trouble you. I added a concise recapitulation of some of the prudential considerations which had been so often pressed before, and there I left the subject."

[EXTRACTS.]

Mr. Pinkney to Mr. Madison, dated London, September 24, 1808.

"I AM now enabled to transmit to you a copy of Mr. Canning's answer, received only last night, to my note of the 23d of August."

"I regret extremely that the views, which I have been instructed to lay before this government have not been met by it as I had at first been led to expect. The overture cannot fail, however, to place in a strong light the just and liberal sentiments by which our government is animated, and, in other respects, to be useful and honourable to our country."

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, AUG. 23, 1808.

SIR,

I HAVE had the honour, in consequence of the orders of the President, to recall your attention, in the course of several recent interviews, to the British orders in council, of the 7th of January and 11th of November, 1807, and to the various other orders founded upon or in execution of them: and I now take the liberty to renew, in the mode which I have understood to be indispensable, my instances on that subject.

I need scarcely remind you, sir, that the government of the United States has never ceased to consider these orders as violating its rights, and affecting most destructively its interests, upon grounds wholly inadmissible, both in principle and fact.

The letters of Mr. Madison to Mr. Erskine, of the 20th and 29th of March, 1807, produced by the official communication of that minister of the order of the 7th of January, and the answer of Mr. Madison of the 25th of March, 1808, to a like communication of the orders of the 11th of November, contained the most direct remonstrances against the system which these orders introduce and execute, and expressed the confident expectation of the President, that it would not be persisted in.

That expectation has not yet been fulfilled; but it has, notwithstanding, not been relinquished. The President is still persuaded that its accomplishment will result from a careful review, by his majesty's government, made in the spirit of moderation and equity, of the facts and considerations which belong to the occasion.

It is not my purpose to recapitulate, in this note, the statements and reasonings contained in the abovementioned letters of Mr. Madison, in support of the claim of the government of the U. States, that the British orders be revoked. I content myself with referring to those letters for proofs which it is not necessary to repeat, and for arguments which I could not hope to improve.

But there are explanations which those letters do not contain, and which it is proper for me now to make. Even these, however, may be very briefly given, since you have already been made acquainted, in our late conversations, with all their bearings and details.

These explanations go to show, that, while every motive of justice conspires to produce a disposition to recall the orders of which my government complains, it is become apparent that even their professed object will be best attained by their revocation.

I have the honour to state to you, sir, that it was the intention of the President, in case Great Britain repealed her orders, as regarded the United States, to exercise the power vested in him by the act of the last session of Congress, entitled "An act to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbours of the United States, and the several supplementary acts thereto," by suspending the embargo law and its supplements, as regards Great Britain.

I am authorized to give you this assurance in the most formal manner; and I trust that, upon impartial inquiry, it will be found to leave no inducement to perseverance in the British orders, while it creates the most powerful inducements of equity and policy to abandon them.

On the score of justice it does not seem possible to mistake the footing upon which this overture places the subject; and I venture to believe that in any other view there is as little room for doubt.

If, as I propose, your orders should be rescinded as to the United States, and our embargo rescinded as to Great Britain, the effect of these concurrent acts will be that the commercial intercourse of the two countries will be immediately resumed; while, if France should adhere to maxims and conduct derogatory to the neutral rights of the United States, the embargo, continuing as to her, will take the place of your orders, and lead, with an efficacy

not merely equal to theirs, but probably much greater, to all the consequences that ought to result from them.

On the other hand, if France should concur in respecting those rights, and commerce should thus regain its fair immunities, and the law of nations its just dominion, all the alleged purposes of the British orders will have been at once fulfilled.

If I forbear to pursue these ideas through all the illustrations of which they are susceptible, it is because the personal conferences to which I have before alluded, as well as the obvious nature of the ideas themselves, render it unnecessary.

I cannot conclude this note, without expressing my sincere wish, that what I have now suggested, in conformity with the liberal sentiments and enlightened views of the President, may contribute, not only to remove the more immediate obstacles to the ordinary intercourse of trade between your country and mine, in a manner consistent with the honour of both, but to prepare the way for a satisfactory adjustment of every question important to their future friendship. I have the honour to be, &c.

(Signed)

WILLIAM PINKNEY.

The Rt. Hon. GEORGE CANNING, &c. &c.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, SEPT. 23, 1808.

THE undersigned, his majesty's principal secretary of state for foreign affairs, had the honour to receive the official letter addressed to him by Mr. Pinkney, minister plenipotentiary of the United States, respecting the orders in council issued by his majesty on the 7th of January and 11th of November, 1807.

He has laid that letter before the king: and he is commanded to assure Mr. Pinkney, that the answer to the proposal, which Mr. Pinkney was instructed to bring forward, has been deferred only in the hope that the renewed application, which was understood to have been recently made by the

government of the United States to that of France, might, in the new state of things which has arisen in Europe, have met with such a reception in France, as would have rendered the compliance of his majesty with that proposal consistent, as much with his majesty's own dignity, and with the interests of his people, as it would have been with his majesty's disposition towards the United States.

Unhappily, there is now no longer any reason to believe, that such a hope is likely to be realized; and the undersigned is, therefore, commanded to communicate to Mr. Pinkney the decision, which, under the circumstances as they stand, his majesty feels himself compelled, however unwillingly, to adopt.

The mitigated measure of retaliation, announced by his majesty in the order in council of the 7th of January, and the further extension of that measure (an extension in operation, but not in principle) by the orders in council of November, were founded (as has been already repeatedly avowed by his majesty) on the "unquestionable right of his majesty to retort upon the enemy the evils of his own injustice;" and upon the consideration, that "if third parties incidentally suffered by these retaliatory measures, they were to seek their redress from the power, by whose original aggression that retaliation was occasioned."

His majesty sees nothing in the embargo, laid on by the President of the United States of America, which varies this original and simple state of the question.

If considered as a measure of impartial hostility against both belligerents, the embargo appears to his majesty to have been manifestly unjust, as, according to every principle of justice, that redress ought to have been first sought from the party originating the wrong. And his majesty cannot consent to buy off that hostility, which America ought not to have extended to him, at the expense of a concession made, not to America, but to France.

If, as it has more generally been represented by the government of the United States, the embargo is only to be considered as an innocent municipal regulation, which

affects none but the United States themselves, and with which no foreign state has any concern; viewed in this light, his majesty does not conceive, that he has the right, or the pretension, to make any complaint of it, and he has made none. But, in this light, there appears not only no reciprocity, but no assignable relation, between the repeal, by the United States, of a measure of voluntary self restriction, and the surrender, by his majesty, of his right of retaliation against his enemies.

The government of the United States is not now to be informed, that the Berlin decree of November 21st, 1806, was the practical commencement of an attempt, not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity; that in this attempt, almost all the powers of the European continent have been compelled, more or less, to co-operate; and that the American embargo, though most assuredly not intended to that end, (for America can have no real interest in the subversion of the British power, and her rulers are too enlightened to act from any impulse, against the real interests of their country) but by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of the "blockade of the European continent," precisely at the very moment, when, if that blockade could have succeeded at all, this interposition of the American government would most effectually have contributed to its success.

To this universal combination, his majesty has opposed a temperate, but a determined retaliation upon the enemy; trusting, that a firm resistance would defeat this project; but knowing that the smallest concession would infallibly encourage a perseverance in it.

The struggle has been viewed by other powers, not without an apprehension that it might be fatal to this country. The British government has not disguised from itself, that the trial of such an experiment might be arduous and long; though it has never doubted of the final

issue. But if that issue, such as the British government confidently anticipated, has providentially arrived much sooner than could even have been hoped ; if "the blockade of the continent," as it has been triumphantly styled by the enemy, is raised even before it had been well established, and if that system, of which, extent and continuity were the vital principles, is broken up into fragments utterly harmless and contemptible ; it is nevertheless important in the highest degree, to the reputation of this country, (a reputation which constitutes great part of her power,) that this disappointment of the hopes of her enemies should not have been purchased by any concession ; that not a doubt should remain to distant times, of her determination and of her ability to have continued her resistance ; and that no step, which could even mistakenly be construed into concession, should be taken on her part, while the smallest link of the confederacy remains undissolved, or while it can be a question, whether the plan devised for her destruction, has, or has not, either completely failed, or been unequivocally abandoned.

These considerations compel his majesty to adhere to the principles on which the orders in council of the 7th of January, and the 11th of November, are founded, so long as France adheres to that system, by which his majesty's retaliatory measures were occasioned and justified.

It is not improbable, indeed, that some alterations may be made in the orders in council, as they are at present framed, alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy.

But of alterations to be made with this view only, it would be uncandid to take any advantage in the present discussion : however, it might be hoped, that in their practical effect, they might prove beneficial to America, provided the operation of the embargo were not to prevent her from reaping that benefit.

It remains for the undersigned to take notice of the last paragraph of Mr. Pinkney's letter. There cannot exist, on the part of Mr. Pinkney, a stronger wish, than there does on that of the undersigned, and of the British government, for the adjustment of all the differences subsisting between the two countries.

His majesty has no other disposition than to cultivate the most friendly intercourse with the United States.

The undersigned is persuaded, that Mr. Pinkney would be one of the last to imagine, what is often idly asserted, that the depression of any other country is necessary or serviceable to the prosperity of this. The prosperity of America is essentially the prosperity of Great Britain, and the strength and power of Great Britain are not for herself only, but for the world. When those adjustments shall take place, to which, though unfortunately not practicable at this moment, nor under the conditions prescribed by Mr. Pinkney, the undersigned, nevertheless, confidently looks forward; it will perhaps be no insecure pledge for the continuance of the good understanding between the two countries, that they will have learnt duly to appreciate each other's friendship; and that it will not hereafter be imputed to Great Britain, either on the one hand, that she envies American industry as prejudicial to British commerce, or, on the other hand, that she is compelled to court an intercourse with America, as absolutely necessary to her own existence.

His majesty would not hesitate to contribute in any manner in his power, to restore to the commerce of the United States, its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal, as a measure of inconvenient restriction upon the American people.

The undersigned is commanded, in conclusion, to observe, that nothing is said in Mr. Pinkney's letter, of any intention to repeal the proclamation, by which the ships of war of Great Britain are interdicted from all those

rights of hospitality in the ports of the United States, which are freely allowed to the ships of his majesty's enemies.

The continuance of an interdiction which, under such circumstances, amounts so nearly to direct hostility, after the willingness professed, and the attempt made by his majesty, to remove the cause on which that measure had been originally founded, would afford but an inauspicious omen for the commencement of a system of mutual conciliation; and the omission of any notice of that measure in the proposal which Mr. Pinkney has been instructed to bring forward, would have been of itself a material defect in the overture of the President.

But the undersigned is commanded no farther to dwell upon this subject than for the purpose of assuring Mr. Pinkney, that on this and every other point in discussion, between the two governments, his majesty earnestly desires the restoration of a perfect good understanding; and that his majesty would decline no measure for the attainment of that object, which should be compatible with his own honour and just rights, and with the interests of his people.

The undersigned requests Mr. Pinkney will accept the assurances of his high consideration.

(Signed)

GEORGE CANNING.

Copy of a Letter from the honourable David M. Erskine, Esq. envoy extraordinary and minister plenipotentiary of his Britannic Majesty, to the Secretary of State of the United States, dated Washington, March 12, 1807.

SIR,

I AM charged by his majesty to express to the government of the United States, his majesty's perfect confidence in their good sense and firmness in resisting the unjust pretensions contained in the decree issued by the French government at Berlin, on the 21st November, which, if

suffered to take effect, must prove so destructive to the commerce of all neutral nations.

His majesty has learnt that the measures announced in this decree, have already, in some instances, been carried into execution by the privateers of the enemy, and there could be no doubt that his majesty would have an indisputable right to exercise a just retaliation. Neutral nations cannot, indeed, expect that the king should suffer the commerce of his enemies to be carried on through them, whilst they submit to the prohibition which France has decreed against the commerce of his majesty's subjects. But though this right of retaliation would unquestionably accrue to his majesty, yet his majesty is unwilling, except in the last extremity, to have recourse to measures which must prove so distressing to all nations not engaged in the war against France.

His majesty, therefore, with that forbearance and moderation which have at all times distinguished his conduct, has determined, for the present, to confine himself to the exercise of the power given him by his decided naval superiority, in such a manner only as is authorized by the acknowledged principles of the law of nations, and has issued an order for preventing all commerce from port to port of his enemies, comprehending in this order, not only the ports of France, but those of other nations, as, either in alliance with France, or subject to her dominion, have by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

His majesty feels an entire confidence that the moderation and justice of this conduct will be duly appreciated by the United States, and has charged me to express to their government, in the strongest terms, the regret he has experienced in being thus compelled, in his own defence, to act in a manner which must prove in some degree embarrassing to the commerce of neutral nations, and his sincere desire to avoid any stronger measures, to which, however, if the injustice and aggression of his enemies should not be resisted by those nations, whose rights and interests are

invaded by so flagrant a violation of all publick law, it may be ultimately necessary for the king to have recourse.

I have the honour to be, &c.

(Signed)

D. M. ERSKINE.

*Hon. JAMES MADISON, Esq.
Secretary of State.*

Mr. Madison to Mr. Erskine.

DEPARTMENT OF STATE, MARCH 20, 1807.

SIR,

I HAVE laid before the President your letter of the 12th instant, communicating the views of his Britannic majesty, in relation to the French decree of November 21st, 1806, and the principle of retaliation, through the commerce of neutrals, who may submit to the operation of that decree; as also, the measure actually taken, of prohibiting all neutral commerce from port to port, of his enemies, not only the ports of France, but those of such other nations, as, either in alliance with France, or subject to her dominion, have, by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

The President cannot be insensible, sir, to the friendship and confidence towards the United States, which are signified by his Britannic majesty in this communication. In making this acknowledgment, however, the President considers it not less incumbent on him, to reserve, for a state of things which it is hoped may never occur, the right of discussing the legality of any particular measures, to which resort may be had, on a ground of retaliation. At this time, it would suffice to observe, that it remains to be more fully ascertained, in what sense the decree in question will be explained, and to what extent it will be carried into execution; and consequently, whether in any case, the United States can be involved in questions concerning measures of retaliation, supposed to accrue to one belligerent, from such a proceeding, by another. But it is worthy the justice and the liberality of the British government to recollect, that within the period of those great events, which continue to agitate Europe, instances have

occurred, in which the commerce of neutral nations, more especially of the United States, has experienced the severest distresses from its own orders and measures, manifestly unauthorized by the law of nations. The respect which the United States owe to their neutral rights, and the interest they have in maintaining them, will always be sufficient pledges, that no culpable acquiescence on their part, will render them accessory to the proceedings of one belligerent nation, through their rights of neutrality, against the commerce of its adversary.

With regard to the particular order issued against the trade of neutrals, from one port to another of the enemies of Great Britain, no fair objection can lie against it, provided it be founded on, and enforced by, actual blockades as authorized by the law of nations. If, on the other hand, the order has reference, not to such a blockade, but to a supposed illegality of the neutral trade from one to another of the described ports, the remark is obvious, that on that supposition, the order is superfluous; the trade being, as interdicted by the law of nations, liable at all times, without any such order, to the capture of British cruisers, and the condemnation of British courts; and if not interdicted as such by the law of nations, it can no otherwise be made illegal, than by a legal blockade of the ports comprehended in the order. This inference is applicable even to the case of a neutral trade between the ports of France herself; since it is not a principle of the acknowledged law of nations, that neutrals may not trade from one to another port of the same belligerent nation. And it would be an innovation on that law, not before attempted, to extend the principle to a neutral trade between ports of different countries, confessedly open in times of peace as well as of war.

If the British order refers for its basis, to the principle of retaliation against the French decree, it falls under the observations already made on that subject, and which need not be repeated. I am, &c.

(Signed)

JAMES MADISON.

Hon. DAVID M. ERSKINE, &c. &c.

Mr. Madison to Mr. Erskine.

DEPARTMENT OF STATE, MARCH 25, 1808.

SIR,

HAVING laid before the President your letter of the 23d of February, explaining the character of certain British orders of council issued in November last, I proceed to communicate the observations and representations, which will manifest to your government the sentiments of the President on so deep a violation of the commerce and rights of the United States.

These orders interdict to neutral nations, or rather to the United States, now the only commercial nation in a state of neutrality, all commerce with the enemies of Great Britain, now nearly the whole commercial world, with certain exceptions only, and under certain regulations, but too evidently fashioned to the commercial, the manufacturing, and the fiscal policy of Great Britain; and on that account the more derogatory from the honour and independence of neutral nations.

The orders are the more calculated to excite surprise in the United States, as they have disregarded the remonstrances conveyed in my letters of the 20th and 29th of March, 1807, against another order of council, issued on a similar plea, in the month of January, 1807. To these just remonstrances no answer was indeed ever given; whilst the order has continued in its pernicious operation against the lawful commerce of the United States; and we now find added to it others, instituting still more ruinous depredations, without even the addition of any new pretext: and when, moreover, it is notorious that the order of January was of a nature greatly to overbalance, in its effects, any injuries to Great Britain that could be apprehended from the illegal operation of the French decree, on which the order was to retaliate, had that decree, in its illegal operation, been actually applied to the United States, and been acquiesced in by them.

The last orders, like that of January, proceed on the

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most unsubstantial foundation. They assume for fact, an acquiescence of the United States in an unlawful application to them of the French decree: and they assume for a principle, that the right of retaliation accruing to one belligerent is not to have for its measure that of the injury received; but may be exercised in any extent, and under any modifications, which may suit the pleasure or the policy of the complaining party.

The fact, sir, is unequivocally disowned. It is not true that the United States have acquiesced in an illegal operation of the French decree: nor is it even true, that at the date of the British orders of November 11, a single application of that decree to the commerce of the United States, on the high seas, can be presumed to have been known to the British government.

The French decree in question has two distinct aspects; one clearly importing an intended operation within the territorial limits as a local law; the other apparently importing an intended operation on the high seas.

Under the first aspect, the decree, however otherwise objectionable, cannot be said to have violated the neutrality of the United States. If the governing powers on the continent of Europe choose to exclude from their ports, British property or British productions, or neutral vessels proceeding from British ports, it is an act of sovereignty which the United States have no right to controvert. The same sovereignty is exercised by Great Britain, at all times, in peace as well as in war, towards her friends as well as her enemies. Her statute book presents a thousand illustrations.

It is only, therefore, under the other aspect of the decree, that it can have violated neutral rights: and this would have resulted from its execution on the high seas, whether on the pretext of a nominal blockade, or with a view to enforce a domestick regulation against foreign vessels, not within the domestick precincts, but under the authority and protection of the law of nations.

Had then the French decree been executed on the high

seas against the commerce of the United States with Great Britain ; and have the United States acquiesced in the unlawful and injurious proceeding ?

I state, sir, on undeniable authority, that the first instance, in which that decree was put in force against the neutral rights of the United States, was that of the *Horizon*, an American ship bound from Great Britain to Lima, wrecked within the territorial jurisdiction of France, but condemned under an exposition of the decree, extending to the high seas its operation against neutrals. This judicial decision took place as late as the 16th day of October, 1807, and was not officially known to the minister plenipotentiary of the United States at Paris till some time in November. At the date, therefore, of the first order of Great Britain, no injury whatever had been done to her, through an aggression on the commerce of the United States. No presumption even had been sufficiently authorized, that the express stipulations in the treaty of France with the United States would not exempt their commerce, at least, from the operation of any edict incompatible with them. At the date even of the latter orders of November 11, it appears that the only aggression, which had then occurred, was pretty certainly unknown to the British government, and could therefore have had no share in producing this alleged retaliation.

To the fact, that the case of the ship *Horizon* was the first that occurred, of an execution of the French decree on the high seas, I am able to add, that as late as the 30th of November, no other case had been brought into the French court of prizes. From accounts which have lately appeared, it is more than probable that unlawful captures by French cruisers have since taken place ; but it remains to be known whether they are to be referred to the concurrence of the French government in the judgment pronounced in the case of the *Horizon*, or not rather to a French decree of the 17th of December last, professing to be a retaliation on the British orders of November 11.

I state with equal confidence, that at no time have the

United States acquiesced in violations of their neutral rights injurious to Great Britain, or any other belligerent nation. So far were they, in particular, from acquiescing in the French decree of November, 1806, that the moment it was known to their minister at Paris, he called for explanations of its meaning in relation to the United States, which were favourable, and uncontradicted by the actual operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them to the commerce of the United States; that no time was lost, after the decree came to the knowledge of the government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the *Horizon*, in presenting to the French government a remonstrance in terms which can never be censured for a defect of energy; and that by the first opportunity, after that decision reached the President, the particular instructions required by it were forwarded to that minister. Nor is it to be forgotten, that previous to the British orders of November, it had been explicitly communicated to the British government, by the American minister at London, that explanations, uncontradicted by any overt act, had been given to our minister at Paris, which justified a reliance that the French decree would not be put in force against the United States; and that the communication was repeated to the British government immediately on the publication of those orders.

What more could have been required on the part of the United States, to obviate retaliating pretensions of any sort on the part of Great Britain? Retaliations are measures of rigour in all cases. Where they are to operate through a third and involuntary party, they will never be hastily resorted to, by a magnanimous or a just power; which will always allow to the third party, its right to discuss the merits of the case, and will never permit itself to enforce its measures without affording a reasonable time, for the use of reasonable means, for substituting another remedy.

What would be the situation of neutral powers, if the first blow levelled through them by one belligerent against another, was to leave them no choice but between the retaliating vengeance of the latter, and an instant declaration of war against the former? Reason revolts at this, as the sole alternative. The United States could no more be bound to evade the British orders, by an immediate war with France, than they were bound to atone for the burning of the French ship of war on the shore of North Carolina, by an immediate resort to arms against Great Britain.

With respect to the principle assumed by the British orders, it is perfectly clear, that it could not justify them in the extent given to their operation, if the facts erroneously assumed could have been fully sustained.

Retaliation is a specific or equivalent return of injury, for injury received; and where it is to operate through the interests of a third party, having no voluntary participation in the injury received, the return ought, as already observed, to be inflicted with the most forbearing hand.

This is the language of common sense, and the clearest equity. As the right to retaliate results merely for the wrong suffered, it cannot, in the nature of things, extend beyond the extent of the suffering. There may often be a difficulty in applying this rule with exactness, and a reasonable latitude may be allowable on that consideration. But a manifest and extravagant departure from the rule can find no apology.

What then is the extent of the injury experienced by Great Britain from the measures of her enemies, so far as the operation of those measures through the United States, can render them in any sense responsible?

A mere declaration by a belligerent, without the intention or the means to carry it into effect against the rights and obligations of a neutral nation, and thence against the interests of another belligerent, could afford no pretext to the latter, to retaliate at the expense of the neutral. The declaration might give just offence to the neutral, but it would belong to him alone to decide on the course pre-

scribed by the respect he owed to himself. No real damage accruing to the belligerent, no indemnity could accrue.

For the same reason, a declaration of a belligerent which he is known to be either not in a situation, or not to intend to carry, but partially, into execution against a neutral, to the injury of another belligerent, could never give more than a right to a commensurate redress against the neutral. All remaining unexecuted, and evidently not to be executed, is merely ostensible; working no injury to any, unless it be in the disrespect to the neutral, to whom alone it belongs to resent or disregard it.

Bring the case before us to this plain and equitable test. The French decree of November, 1806, undertook to declare the British isles in a state of blockade, to be enforced, if you please, against the neutral commerce of the United States, on the high seas, according to the faculty possessed for the purpose. As far as it was actually enforced, or an effect resulted from an apprehension that it could and would be enforced, it was an injury to Great Britain, for which, let it be supposed, the United States were answerable. On the other hand, as far as it was not enforced, and evidently either would not or could not be enforced, no injury was experienced by Great Britain, and no remedy could lie against the United States.—Now, sir, it never was pretended that, at the date of the first British order, issued in January, 1807, any injury had accrued to, or was apprehended by Great Britain, from an execution of the French decree against the commerce of the United States, on the theatre of their neutral rights: so far from it, that the order stands self condemned as a measure of retaliation, by expressly stating that the fleets of France and her allies, instead of being able to enforce the blockade of the British isles, were themselves confined to their own ports, by the entire superiority of the British navy: converting thus, by the strangest of reasonings, the security of Great Britain against injury from the French decree, into a title to commit injury on a neutral party. In the November orders also, whilst it is admitted that the French decree could not

be but imperfectly executed, for want of means, it is asserted that the intention of the French decree, and not the injury accruing from its operation through the commerce of the United States, is the scale by which the retaliating injury against them is to be measured.

Such are the pretexts, and such the principles, on which one great branch of the lawful commerce of this country became a victim to the first British order, and on which the last orders are now sweeping from the ocean all its most valuable remains.

Against such an unprecedented system of warfare on neutral rights, and national independence, the common judgment and common feelings of mankind must for ever protest.

I touch, sir, with reluctance, the question, on which of the belligerent sides the invasion of neutral rights had its origin. As the United States do not acquiesce in these invasions by either, there could be no plea for involving them in the controversy. But as the British orders have made the decree of France, declaring, contrary to the law of nations, the British islands in a state of blockade, the immediate foundation of their destructive warfare on our commerce, it belongs to the subject to remind your government of the illegal interruptions and spoliations suffered, previous to that decree, by the neutral commerce of the United States, under the proceedings of British cruisers and courts, and for the most part, in consequence of express orders of the government itself. Omitting proofs of inferior note, I refer to the extensive aggressions on the trade of the United States, founded on the plea of blockades never legally established according to recognised definitions; to the still more extensive violations of our commerce, with ports of her enemies not pretended to be in a state of blockade; and to the British order of council issued near the commencement of the existing war. This order, besides its general interpolation against the established law of nations, is distinguished by a special ingredient, violating that law as recognised by the course of de-

isions in the British courts. It subjects to capture and condemnation all neutral vessels, returning with lawful cargoes, on the sole consideration, that they had, in their outward voyage, deposited contraband of war at a hostile port.

If the commerce of the United States could, therefore, in any case, be reasonably made the victim and the sport of mutual charges and reproaches between belligerent parties, with respect to the priority of their aggressions on neutral commerce, Great Britain must look beyond the epoch she has chosen, for illegal acts of her adversary, in support of the allegation on which she founds her retaliating edicts against our commerce.

But the United States are given to understand, that the British government has, as a proof of its indulgent and amicable disposition towards them, mitigated the authorized rigour it might have given to its measures, by certain exceptions peculiarly favourable to the commercial interests of the United States.

I forbear, sir, to express all the emotions with which such a language, on such an occasion, is calculated to inspire a nation which cannot for a moment be unconscious of its rights, nor mistake, for an alleviation of wrongs, regulations, to admit the validity of which would be to assume badges of humiliation never worn by an independent power.

The first of these indulgences is a commercial intercourse with the dependences of the enemies of Great Britain, and it is considered as enhanced by its being a deviation in favour of the United States, from the ancient and established principle of maritime law, prohibiting altogether such an intercourse in time of war.

Surely, sir, your government, in assuming this principle, in such terms, in relation to the United States, must have forgotten their repeated and formal protests against it, as these are to be found in the discussions and communications of their minister at London, as well as in explanations occasionally made on that subject to the British represen-

tative here. But permit me to ask more particularly, how it could have happened, that the principle is characterized as an ancient and established one? I put the question the more freely, because it has never been denied that the principle, as asserted by your government, was for the first time introduced during the war of 1750. It is, in fact, invariably cited and described, in all judicial and other official transactions, "as the rule of 1750." It can have no pretension, therefore, to the title of an *ancient* rule.

And instead of being an *established* rule or principle, it is well known that Great Britain is the only nation that has acted upon, or otherwise given a sanction to it. Nay, it is not even an established principle in the practice of Great Britain herself. When first applied in the war of 1756, the legality of a neutral trade with enemies' colonies was not contested by it. In certain cases only of the colonial trade the allegation was, that the presumptive evidence arising from circumstances, against the bona fide neutrality of the ownership, justified the condemnation as of enemy's property. If the rule of condemnation was afterwards, during that war, converted into the principle now asserted, it could not possibly have been in operation, in its new shape, more than a very few years. During the succeeding war of 1778, it is admitted by every British authority, that the principle was never brought into operation. It may be regarded, in fact, as having been silently abandoned. And within the period of war, since its commencement in 1793, the manner in which the principle has been alternately contracted and extended, explained sometimes in one way, sometimes in another, rested now on this foundation, now on that, is no secret to those who have attended to its history and progress in the British orders of council, and the British courts of admiralty.

With the exception, therefore, of a period, the last in modern times from which authentick precedents of maritime law will be drawn, and throughout which the United States, more interested in the question than any other nation, have uniformly combated the innovation, the princi-

ple has not in the British tribunals been in operation for a longer term than three, four, or five years, whilst in no others has it ever made its appearance but to receive a decision protesting against it.

Such is the antiquity, and such the authority of a principle, the deviations from which are held out as so many favours consoling the United States for the wide spread destruction of their legitimate commerce.

What must be said as to the other exceptions which seem to have been viewed as claims on the gratitude of the United States? Is it an indulgence to them in carrying on their trade with the whole continent of Europe, to be laid under the necessity of going first to a British port, to accept a British license, and to pay a tribute to the British exchequer, as if we had been reduced to the colonial situation which once imposed these monopolising restraints?

What again must be said as to the other features which we see blended on the face of these regulations? If the policy of them be to subject an enemy to privations, why are channels opened for a British trade with them which are shut to a neutral trade? If, in other cases, the real object be to admit a neutral trade with the enemy, why is it required that neutral vessels shall perform the ceremony of passing through a British port, when it can have no imaginable effect but the known and inevitable one of prohibiting the admission of the trade into the port of destination?

I will not ask why a primary article of our productions and exports, cotton wool, is to be distinguished, in its transit, by a heavy impost, not imposed on other articles, because it is frankly avowed, in your explanation of the orders, to be intended as an encouragement to British manufactures, and a check to the rival ones of France. I suppress, also, though without the same reason for it, the inquiry, why less rigorous restrictions are applied to the trade of the Barbary powers, than are enforced against that of a nation, such as the United States, and in relations, such as have existed between them and Great Britain.

I cannot, however, pass without notice the very unwarrantable innovations contained in the two last of the orders. In one of them, a certificate of the local origin of a cargo, although permitted in the port of departure, and required in the port of destination, by regulations purely domestick in both, and strictly analogous in principle to regulations in the commercial code of Great Britain, is made a cause of capture on the high seas, and of condemnation in her maritime courts. In the other order, the sale of a merchant ship, by a belligerent owner to a neutral, although a transaction as legal, when fair, as a dealing in any other article, is condemned by a general rule, without an atom of proof, or of presumption, that the transfer in the particular case, is fraudulent, and the property, therefore, left in an enemy.

In fine, sir, the President sees in the edicts communicated by you, facts assumed which did not exist; principles asserted which never can be admitted; and, under the name of retaliation, measures transcending the limits reconcilable with the facts and the principles, as if both were as correct as they are unfounded. He sees, moreover, in the modifications of this system, regulations, violating equally our neutral rights and our national sovereignty. He persuades himself, therefore, that your government will see, in the justice of the observations now made, in addition to those I had the honour, verbally, to state to you in the first instance, that the United States are well warranted in looking for a speedy revocation of a system, which is every day augmenting the mass of injury for which the United States have the best of claims to redress.

I have the honour to be, &c.

(Signed)

JAMES MADISON.

The Hon. DAVID M. ERSKINE, &c. &c.

From Mr. Madison to Mr. Erskine.

DEPARTMENT OF STATE, MARCH 29, 1807.

SIR,

FURTHER reflection on the tenour and tendency of the order of his Britannic majesty, communicated by your let-

ter of the 19th instant, which was answered by mine of the 20th, induces me to resume that important subject.

From the difficulty of supposing that the order can have for its basis, either a legal blockade impossible to be extended to all the ports described in the order, or a supposed illegality of the trade between these ports, an illegality which has never been applied by the British government or its admiralty courts to an accustomed trade, even between the ports of the same belligerent nation, and is utterly at variance with the conduct of both in reference to a trade between a belligerent nation and its allies; a necessity seems to result of ascribing the order to the policy of countervailing, through the commerce of neutrals, the French decree of the 21st of November last.

In this view of the order, it demands, on the part of the United States, the most serious attention both to its principle and to its operation.

With respect to its *principle*, it will not be contested that a retaliation by one nation on its enemy, which is to operate through the interest of a nation not an enemy, essentially requires not only that the injury inflicted should be limited by the measure of injury sustained, but that every retaliating step, in such a case, should be preceded by an unreasonable failure of the neutral party to put an end, in some mode or other, to the inequality wrongfully produced.

Were it certain, therefore, that the French decree is to be enforced in the sense in which it is taken, and that in violation of the treaty between France and the United States, the commerce of the latter will not be exempted; the British order being peremptory in its import, and immediate in its execution, might justly be regarded by the United States, as a proceeding equally premature and unfriendly.

But in the uncertainty as to the real meaning of that decree, and whilst a presumption offered itself, that the decree, if avowed and executed in an unlawful extent, might not embrace the commerce of the United States,

they are bound by justice to their interests, as well as by respect for their rights, to consider the British order as a ground for serious complaint and remonstrance.

Should it prove that the decree had not the meaning ascribed to it, and particularly, should the respect of France for her treaties with the United States exempt their trade from the operation of the decree, the order of the British government will stand exposed to still severer comments. It will take the character of an original aggression, will furnish the French government, a like ground with that assumed by itself, for retaliating measures, and will derive a very unfavourable feature from the consideration, that it was a palpable infraction of a treaty just signed on the part of the British government, and expected, at the date of the order, to be speedily ratified on the part of the United States.

The necessity of presenting the subject in its true light, is strengthened by the operation which the British order will have on a vast proportion of the entire commerce of the United States. Not to dwell on the carrying branch of the commerce between the ports and countries of Europe, and which the immunity given by our flag in consequence of treaties with the enemies of Great Britain, to British property, and not enjoyed by the property of her enemies, has hitherto been advantageous to Great Britain; and without inquiring into the effect of an application of the interdict, to the other quarters of the globe, all of which are evidently within the comprehensive terms of the order, it cannot be overlooked, that the character and course of nearly the whole of the American commerce with the ports of Europe, other than of Great Britain, will fall under the destructive operation of the order. It is well known that the cargoes exported from the United States frequently require that they be disposed of, partly at one market, and partly at another. The return cargoes are still more frequently collected at different ports; and not unfrequently, at ports different from those receiving the outward cargoes. In this circuitous voyage, generally

consisting of several links, the interest of the undertakers materially requires also either a trade or a freightage between the ports visited in the circuit. To restrain the vessels of the United States, therefore, from this legitimate and customary mode of trading with the continent of Europe, as is contemplated by the order, and to compel them on one hand to dispose of the whole of their cargoes at a port which may want but a part, and, on the other hand, to seek the whole of their returns at the same port, which may furnish but a part or perhaps no part of the articles wanted, would be a proceeding as ruinous to our commerce, as contrary to our essential rights.

These observations, which are made in conformity with the sentiments of the President, cannot fail, sir, to have all the weight with an enlightened and friendly government, to which they are entitled; and the President persuades himself, that the good effect of the truths which they disclose, will be seen in such measures as will remove all ground for dissatisfaction, and demonstrate, on that side, the same sincere disposition to cultivate harmony and beneficial intercourse, as is felt and evinced by the United States and their government.

I have the honour to be, &c.

(Signed)

JAMES MADISON.

The Hon. DAVID M. ERSKINE, Esq.

Colonel Lear, to the Secretary of State.

[FOURTH COPY.]

ALGIERS, MARCH 28, 1808.

SIR,

I HAVE the honour to enclose a triplicate of my respects to you of the 4th of January, and duplicates of that of the 9th instant, and the schedule of my account with the United States. Since forwarding the first of these, I have heard nothing respecting the United States, excepting by a letter from Mr. Montgomery, our consul in Alicante, that an embargo had been laid on all vessels in the ports of the United States.

It is with regret I have to inform you, that our affairs

here wear a different aspect from what they did when I had last the honour of writing to you. On the 16th instant, the dey sent me a message by my drogerman, that I should pay immediately sixteen thousand dollars for eight of the subjects of his regency, said to have been destroyed on board the American schooner *Mary-Ann*, captured some time since, by one of his frigates, as mentioned in my former letters. I returned for answer, that I had not yet received any authentick advices of this business, and could therefore say nothing about it. The dey then sent me word, that he would wait the arrival of the courier from Alicante, by which I might receive some information.

But on the 24th, (the courier not having yet arrived) the drogerman informed me, that the dey had sent for him, and ordered him to tell me, that if I did not pay the money before night, I should be sent to prison in chains. I ordered him to return immediately to the dey, and say that I could not pay the money, without the order of my government, as it was an affair out of the usual course of our business here, and that I was ready to meet the event. He brought me word, that the dey would see me the next day at noon, on the subject.

He accordingly sent for me at noon on the 25th. When I entered the palace, I met Mr. Ulrick, the Danish consul, who was descending from an audience of the dey. He was seized by a Chaoux, who carried him through the streets, in the most indignant manner, to the slave prison, where he was loaded with an enormous chain; the reason assigned for which was, that he had been called upon for his biennial presents, which he declared he could not make, without having time given him, as the vessel containing it, and annuities for the regency, had been taken by the English. On meeting the dey, he demanded from me immediate payment for the persons before mentioned, together with an additional two thousand dollars for the boy said to have been carried in the schooner to Naples. I told him, with firmness, that I could not pay it without the orders of my government, as it was an extraordinary case, and request-

ed time to write and receive an answer ; but was answered, that if it was not paid immediately, I knew what the consequence would be. I replied, that let the consequence be what it might, I should not pay it. I was then ordered to leave his presence. On descending to the area of the palace, where the Danish consul had been seized, I expected the same compliment which he had met with, and was prepared for it ; but finding no one to molest me, I left the palace and returned to my own home, where I supposed the orders would be sent to have me arrested ; but the day passed without my hearing any thing more of the matter. In the evening I met the French and Swedish consuls (the others being at their gardens) and we agreed to send for the other consuls the following morning, to concert measures for the liberation of the Dane. At noon we met at the Danish consul's house, with our respective dragomen, and proceeded to the palace, where we had an audience of the dey ; who, after some conversation, agreed to release the Danish consul from his chains, at the intercession made for him. From thence we went to the marine (where the consul had been sent to work with the other slaves, carrying a chain of 40lbs. weight) to receive and conduct him to his house.

While we were with the dey on the business before mentioned, he asked me, in presence of the consuls, if I did not intend to pay the money. I answered him as I had done the day before ; to which he made the same reply ; and I remain in daily expectation of experiencing the effects of this refusal ; which is dictated by a sense of duty, and a conviction that the honour of my country demands such conduct from me. I make no comments on the unpleasantness of my situation. My government and my country will consider it, and do what is right respecting it.

As it is very likely that the cruisers which are now fitting out will have orders to capture American vessels, I have written to our consul in Alicante by this opportunity, which is unexpected, and the only one likely to occur soon, to convey notice to all the consuls of the United States in

this sea to guard our merchant vessels against the evil which may occur. A copy of my letter to him I have now the honour to enclose. In consequence of the barbarous outrage which has been committed on the Danish consul, and threatened to be put in execution against me, the consuls have been brought to reflect on their precarious situation here; and I trust, that in a few days, there will be a compact entered into among us, that we will use our best endeavours to enforce that article, which exists in all the treaties between this regency and christian powers, securing the person and family of the consuls from violence and outrage, in consequence of any thing he may do in the exercise of his official functions; and I hope each one will bind himself not to do any act as a publick agent, while any one is held in, or threatened with, durance vile.....Our respective governments, I trust, will sanction such a measure, and give orders to their consuls accordingly.

Notwithstanding all I have stated, it is *possible* that the dey may not proceed to extremities towards me, or commit hostilities on our commerce and citizens, until I hear from my government on the subject.....But I have thought it my duty to guard as much as possible against the evil, by giving notice to our vessels which may be in this sea, as well as those in the Atlantic; for, at present, there is nothing to prevent their cruisers from passing the straits.

The camp is expected to march in a few days against Tunis, and their cruisers are *said* to be intended for that quarter; but there is no doubt but some of them will cruise in every part of this sea, and probably go into the Atlantic.

With sentiments of the highest respect, and most sincere attachment, I have the honour to be, sir, &c.

TOBIAS LEAR.

*The Hon. JAMES MADISON, Sec. State
of the U. States of America, Washington.*

[FOURTH COPY]

ALGIERS, MARCH 31, 1808.

SIR,

A COPY of what I had the honour of writing to you, on the 28th instant, accompanies this, with its enclosures.

* VOL. III. 40

The vessel which took the aforesaid letter did not sail until the 29th.

Yesterday I sent my drogerman to the palace to know of the dey what were his ultimate intentions (if he chose to declare them) respecting the business mentioned in my last; and to request that I might be allowed three months to receive the orders of my government. The answer brought was, that if I paid the money in the course of the day, we should stand as we were before; but if I did not, he would pursue his own measures. As I was yet uncertain whether his threats would be put in execution against me personally, or against our commerce, I remained fixed in my first resolution. This morning, the two frigates, which had been preparing for sea for some days past, made the signal for sailing; and a formal message was sent to inform me that they had orders to capture American vessels. I saw them unmoor; and as I was now convinced from this, as well as from other indubitable evidence, that they had received orders to capture our vessels, (the threats of personal violence to me having had no effect) I thought it a duty which I owed to my government and to my country, to prevent, if possible, the calamity which might fall on our citizens and their property. I therefore sent to inform the dey, that if he should recall his orders from those vessels before they sailed, and make no renewal of them to these or others, I would pay the money; but that I considered it as a measure forced upon me, and as such should represent it to my government. The order was recalled after the frigates had got under way, and the money is to be paid to-morrow; which I shall obtain by bills on Mr. Gavino, our consul in Gibraltar, to whom I shall give bills on the secretary of state of the United States to meet the same. The frigates have gone out, and the other cruisers will be got ready for sea immediately. A vessel is expected to sail in a few days for Alicante, by which I shall write to our consul contravening the positive advices for our vessels not to leave the ports in which they may be; but at the same time, directing them to be strictly on their guard.

I have this day had an opportunity of writing to Tripoli (which is the first that has occurred for more than three months) and I have improved it; and by the same route, to Tunis also, giving information of what has passed.

Painful as has been my situation in this affair, I feel conscious of having discharged my duty to my country in the best and indeed only manner in my power. While I could believe that the consequence of refusing to make this unjust payment would fall upon me personally, I was ready to meet it; but when I was convinced that my country would suffer in the persons and property of its citizens, I was obliged to yield.

My letters which accompany this, contain all I have to say on our affairs here, and I shall only add the assurances of high respect and sincere attachment with which I have the honour to be, &c.

TOBIAS LEAR.

*Hon. JAMES MADISON, Sec. of State
of the United States.*

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING COPIES OF ALL ACTS, DECREES, ORDERS AND PROCLAMATIONS, AFFECTING NEUTRAL RIGHTS, SINCE 1791. DECEMBER 23, 1808.

ACCORDING to the request of the house of representatives, in their resolution of November 11, that copies should be laid before them of all acts, decrees, orders, and proclamations, affecting the commercial rights of neutral nations, issued or enacted by Great Britain and France, or any other belligerent power, since the year 1791, and also of an act placing the commerce of America, in English ports, upon the footing of the most favoured nation, I now transmit them a report of the secretary of state, of such of them as have been attainable in the department of

state, and are supposed to have entered into the views of the house of representatives.

TH: JEFFERSON.

DEPARTMENT OF STATE, DEC. 21, 1808.

THE secretary of state, in pursuance of the resolution of the house of representatives of the 11th of November, respectfully reports to the President of the United States, a copy of an act of the British parliament regulating the trade between the United States and Great Britain, and also copies of such belligerent acts, decrees, orders, and proclamations, as affect neutral rights of commerce, and as have been attainable in the department of state; with the exception, however, of sundry acts, particularly blockades of doubtful import or inferior importance, which it was supposed would have inconveniently extended the delay and the size of the report.

JAMES MADISON.

BRITISH ORDERS IN COUNCIL, &c. &c.

1793. March 25. Extract from the Russian treaty.

May 25. do. - Spanish.

July 14. do. - Prussian.

Aug. 30. do. - Austrian.

June 8. Additional instructions, with respect to corn, meal, &c. &c.

Nov. 6. do. Detention of neutral vessels laden with goods the produce of French colonies, &c.

1794. Jan. 8. Revocation of the last order, and the enactment of other regulations.

1798. Jan. 25. Revocation of the last order, and the enactment of new regulations.

1799. March 22. Blockade of all the ports of Holland.

Nov. 27. Suspension of the blockade of Holland.

1803. June 24. Direct trade between neutrals and the colonies of enemies not to be interrupted, unless upon the outward voyage contraband supplies shall have been furnished by the neutrals.

- 1804.** April 12. Instructions concerning blockades, communicated by Mr. Merry.
Conversion of the siege of Curacao into a blockade.
Aug. 9. Blockade of Fecamp, &c. &c.
- 1805.** 17. Direct trade with enemies' colonies subjected to restrictions.
- 1806.** April 8. Blockade of the Ems, Weser, &c. &c.
May 16. Ditto from the Elbe to Brest.
Sept. 25. Discontinuance of the last blockade, in part.
- 1807.** March 12. Interdiction of the trade from port to port, of France.
June 26. Blockade of the Ems, &c. &c.
Oct. 16. Proclamation recalling seamen.
Nov. 11. Three orders in council.
25. Six do. do.
- 1808.** Jan. 8. Blockade of Carthage, &c. &c.
March 28. Act of Parliament.
April 11. Orders encouraging our citizens to violate the embargo.
14. Act of Parliament to prohibit the exportation of cotton wool, &c. &c.
Act of Parliament making valid certain orders in council, &c. &c.
May 4. Blockade of Copenhagen and the island of Zealand.
June 28. Act of Parliament, regulating trade between the United States and Great Britain.
Oct. 14. Adm. Cockrane's blockade of the French Leeward Islands.

LIST OF FRENCH DECREES.

- 9th May, 1793, Authorizes French vessels to arrest and bring into the ports of the republick, vessels laden with provisions destined for an enemy port.
- 23d May, 1793, Exempts American vessels from the operation of the decree of the 9th.
- 28th May, 1793, Suspends the decree of 23d May.

- 1st July, 1793.** The decree of 23d again enforced.
- 27th July, 1793.** The decree of 23d May repealed, and that of 9th May enforced.
- 25th Brumaire 3d year. (18th November, 1794.)** General regulations, the most important is, that merchandise belonging to the enemy is made liable to seizure in neutral vessels until the enemy shall exempt from seizure French merchandise similarly situated.
- 14th Nivose 3d year. (3d January, 1795.)** Repeals the 5th article of the above, and exempts enemy goods from capture in neutral vessels.
- 14th Messidor 4th year. (2d July, 1796.)** The French will treat neutral nations, as they suffer themselves to be treated by the English.
- 17th Ventose 5th year. (2d March, 1797.)** Enemy's property in neutral vessels liable to confiscation, makes necessary rôle d'équipages.
- 29th Nivose 6th year. (18th January, 1798.)** The character of vessels to be determined by that of their cargoes.
- 28th Ventose 7th year. (18th March, 1799.)** Explains the 4th article of the decree of 2d March, 1797.
- 8th Brumaire 7th year. (29th October, 1799.)** Neutrals found on board enemy vessels liable to be treated as pirates.
- 24th Brumaire 7th year. (14th November, 1799.)** Suspends the operation of the above decree of the 29th October.
- 23d Frimaire 8th year. (13th December, 1800.)** Repeals the 1st article of the law of the 29th Nivose, 6th year. (18th January, 1798.)
- 29th Frimaire 8th year. (19th December, 1800.)** Enforces the regulations of 26th July, 1778.
- 21st November, 1806.** Berlin decree.
- 17th December, 1807.** Milan decree.
- 17th April, 1808.** Bayonne decree.

*List of Decrees of the French agents in the West Indies,
sent to the President December 22, 1808.*

1. 1st August, 1797. Making horses contraband.
2. 1st February, 1797. Authorizes the capture of neutral vessels bound to certain West India Islands.
3. 27th November, 1797. Authorizes the capture of American vessels going to or coming from English ports.
4. 5th February, 1805. Declares that all persons found on board vessels bound to or coming from any ports in Hispaniola, in the possession of the rebels, shall suffer death.

SPANISH DECREES.

1. 15th February, 1800. Blockade of Gibraltar.
2. 18th February, 1807. In imitation of Berlin decree.
3. 3d January, 1808. In imitation of Milan decree.

BRITISH ORDERS, BLOCKADES, &c.

Extract from a Convention between his Britannic majesty and the empress of Russia, signed at London the 25th of March, 1793.

“ART. III. Their said majesties reciprocally engage to shut all their ports against French ships, not to permit the exportation, in any case, from their said ports for France, of any military or naval stores, or corn, grain, salt meat or other provisions; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

“ART. IV. Their majesties engage to unite all their efforts to prevent other powers, not implicated in this war, from giving, on this occasion of common concern to every civilized state, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce or property of the French, on the sea, or in the ports of France.”

Extract from a Treaty between his Britannic majesty and the King of Spain, signed at Aranjuez, the 25th May, 1793.

“ART. IV. Their said majesties engage reciprocally to shut their ports against French vessels; not to permit that there shall in any case be exported from their ports for France either warlike or naval stores, or wheat or other grains, salted meat or other provisions; and to take every other measure in their power to distress the trade of France, and reduce her by that means to just conditions of peace.

“ART. V. Their said majesties also engage, the present war being generally interesting to every civilized state, to unite all their efforts, in order to prevent those powers, which do not take part in the said war, from affording in consequence of their neutrality, any protection, direct or indirect, on the seas or in the ports of France, to the commerce and property of the French.”

Extract from a Convention between his Britannic majesty and the king of Prussia, signed at the camp before Mayence the 14th July, 1793.

“ART. III. The high contracting parties having already taken the resolution to shut all their ports against French ships, and not to permit the exportation, in any cases, from their said ports for France, of any military or naval stores, or corn, grain, salt meat or other provisions, they reciprocally engage to continue those measures, and promise to employ all other means which shall be in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

“ART. IV. Their majesties engage to unite all their efforts to prevent, on this occasion of common concern to every civilized state, other powers not implicated in the war, from giving, in consequence of their neutrality, any

protection whatever, directly or indirectly, to the commerce or property of the French, on the sea, or in the ports of France."

Extract from a Convention between the emperor of Austria and his Britannic majesty, signed at London the 30th August, 1793.

"ART. II. Their said majesties reciprocally engage to shut their ports against French vessels, not to permit, in any instance, warlike or naval stores, corn, grain, salted meat, or other provisions, to be exported from their said ports for France, and to take all other means in their power to annoy the commerce of France, and thereby to reduce her to just conditions of peace.

"ART. III. Their majesties engage to unite all their efforts to prevent other powers, who shall not take part in this war, from giving, on this occasion of common interest to every civilized state, any protection whatever, direct or indirect, in consequence of their neutrality, to the commerce or to the property of the French, at sea, or in the ports of France."

GEORGE, REX.

ADDITIONAL INSTRUCTIONS

To the commanders of his majesty's ships of war and privateers that have or may have letters of marque against France. Given at our court at St. James, the eighth day of June, 1793, and in the thirty-third year of our reign.

1st. THAT it shall be lawful to stop and detain all vessels laden wholly or in part with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as shall be most convenient, in order that such corn, meal, or flour, may be purchased on behalf of his majesty's government, and the ships be released after such purchase, and after a due allowance for freight, or that the masters of such ships, on

giving due security, to be approved of by the court of admiralty, be permitted to proceed to dispose of their cargoes of corn, meal, or flour, in the ports of any country in amity with his majesty.

2d. That it shall be lawful for the commanders of his majesty's ships of war and privateers, that have, or may have letters of marque against France, to seize all ships, whatever be their cargoes, that shall be found attempting to enter any blockaded port, and to send the same for condemnation, together with their cargoes, except the ships of Denmark and Sweden, which shall be prevented from entering on the first attempt, but on the second shall be sent in for condemnation likewise.

3d. That in case his majesty shall declare any port to be blockaded, the commanders of his majesty's ships of war and privateers that have or may have letters of marque against France, are hereby enjoined, if they meet with ships at sea, which appear from their papers to be destined to such blockaded port, but to have sailed from the ports of their respective countries before the declaration of the blockade shall have arrived there, to advertise them thereof, and to admonish them to go to other ports; but they are not to molest them afterwards, unless it shall appear that they have continued their course with intent to enter the blockaded port, in which case they shall be subject to capture and condemnation: as shall likewise all ships wheresoever found, that shall appear to have sailed from their ports, bound to any port, which his majesty shall have declared to be blockaded, after such declaration shall have been known in the country from which they sailed; and all ships which in the course of the voyage shall have received notice of the blockade in any manner, and yet shall have pursued their course with intent to enter the same.

G. R. [L.S.]

ADDITIONAL INSTRUCTION

To the commanders of all our ships of war and privateers that have or may have letters of marque against France. Given at our court at St. James, the sixth day of November, 1793, and in the thirty-fourth year of our reign.

THAT they shall stop and detain all ships laden with goods, the produce of any colony belonging to France, or carrying provisions or other supplies, for the use of any such colony, and shall bring the same with their cargoes to legal adjudication in our courts of admiralty.

By his majesty's command,

(Signed)

H. DUNDAS.

G. R.

INSTRUCTIONS

To the commanders of our ships of war and privateers that have or may have letters of marque against France. Given at our court at St. James, the 8th day of Jan. 1794.

WHEREAS by our former instruction to the commanders of our ships of war and of privateers, dated the 6th day of November, 1793, we signified that they should stop and detain all ships laden with goods, the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and should bring the same with their cargoes to legal adjudication. We are pleased to revoke the said instruction, and in lieu thereof, we have thought fit to issue these our instructions, to be duly observed by the commanders of all our ships of war and privateers, that have or may have letters of marque against France.

1. That they shall bring in for lawful adjudication all vessels with their cargoes, that are laden with goods the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe.

2. That they shall bring in for lawful adjudication all ships with their cargoes, that are laden with goods the produce of the said islands, the property of which goods shall belong to subjects of France, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands, that is, or shall be blockaded by the arms of his majesty or his allies; and shall send them in with their cargoes for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4. That they shall seize all vessels, laden wholly or in part with naval or military stores, bound to any port of the said islands, and shall send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, may be proceeded against, according to the rules of nations.

G. R. [L.S.]

INSTRUCTIONS

To the commanders of our ships of war and privateers, that have, or may have letters of marque against France, Spain, or the United Provinces. Given at our court of St. James, the 25th day of January, 1798, in the 38th year of our reign.

WHEREAS by our former instructions to the commanders of our ships of war and privateers, dated 8th January, 1794, we signified that they should bring in for lawful adjudication all vessels, with their cargoes, that were laden with goods, the produce of the *French West India Islands*, and coming directly from any port of the said islands, to any port in Europe; and likewise all ships, with their cargoes, that were laden with goods, the produce of the said islands, the property of which goods should belong to subjects of *France*, to whatsoever ports the same might be bound; and that they should seize all ships that should be found attempting to enter any port of the said islands, that

was or should be blockaded by the arms of his majesty, or his allies, and should send them in, with their cargoes, for adjudication; and also all vessels laden wholly, or in part, with naval or military stores, bound to any port of the said islands, and should send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, might be proceeded against according to the law of nations: and whereas, in consideration of the present state of the commerce of this country, as well as of that of neutral countries, it is expedient to revoke the said instructions, we are pleased hereby to revoke the same; and in lieu thereof, we have thought fit to issue these our instructions, to be observed from henceforth by the commanders of all our ships of war and privateers, that have or may have letters of marque against *France*, *Spain*, and the *United Provinces*.

1. That they shall bring in for lawful adjudication all vessels, with their cargoes, that are laden with goods, the produce of any island or settlement belonging to *France*, *Spain*, or the *United Provinces*, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of this kingdom, nor a port of that country to which such ships, being neutral ships, shall belong.

2. That they shall bring in for lawful adjudication all ships, with their cargoes, that are laden with goods, the produce of the said islands or settlements, the property of which goods shall belong to subjects of *France*, *Spain*, or the *United Provinces*, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands or settlements, that is or shall be blockaded by the arms of his majesty, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4. That they shall seize all vessels laden, wholly or in part, with naval or military stores, bound to any port of

the said islands or settlements, and shall send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, may be proceeded against according to the rules of the law of nations.

By his majesty's command,

(Signed)

PORTLAND.

[COPY.]

Lord Grenville to Mr. King.

DOWNING STREET, MARCH 22, 1799.

THE undersigned, secretary of state of his Britannic majesty, has received his majesty's commands to acquaint Mr. King, minister plenipotentiary of the United States of America, that the king, judging it expedient to avail himself of the superiority of his naval forces for the defence of his dominions, has signified his commands to the lords commissioners of the admiralty to cause the most rigorous blockade to be established at the entrance of all the ports of Holland, which will be maintained and enforced in the strictest manner, according to the usages of war, acknowledged and observed in similar cases.

Mr. King is therefore requested to apprize the American consuls and merchants residing in England, that the above mentioned ports of the United Provinces are, and must be considered as being in a state of blockade, and that from this time no neutral vessel can be suffered to enter them upon any consideration, or under any pretence whatsoever; and that all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will henceforth be adopted and executed, with respect to vessels destined for the said ports, or such as shall attempt to enter them after this notice.

Lord Grenville to Mr. King.

THE undersigned secretary of state has received his majesty's command to inform Mr. King, that his majesty

has judged it expedient to suspend for the present the blockade of all the ports in the United Provinces, which was established by his majesty's orders, and which was announced to Mr. King by the undersigned, in his note dated March 22.

(Signed)

GRENVILLE.

Supposed to be November 27, 1799.

ADDITIONAL INSTRUCTIONS

By the commissioners for executing the office of lord high admiral of the united kingdom of Great Britain and Ireland, &c.

THE right honourable lord Pelham, one of his majesty's principal secretaries of state, having transmitted us, as additional instructions, under his majesty's signet and sign manual, dated the 24th June, 1803, as follows :

To the commanders of his majesty's ships of war and privateers.

IN consideration of the present state of commerce, we are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel which shall be carrying on trade directly between the colonies of enemies, and the neutral country, to which the vessel belongs, and laden with the property of inhabitants of such neutral country: provided, that such neutral vessels shall not be supplying, nor shall have on the outward voyage supplied, the enemy with any articles contraband of war, and shall not be trading with any blockaded port.

By his majesty's command,

(Signed)

PELHAM.

We send you herewith a printed copy of the said additional instructions for your information and guidance, dated 13th July, 1803.

[Signed by the lords of the admiralty.]

To the judge of the vice admiralty court of the island of Ceylon.

[COPY.]

Mr. Merry to Mr. Madison.

WASHINGTON, APRIL 12, 1804.

SIR,

MR. THORNTON not having failed to transmit to his majesty's government an account of the representation which you were pleased to address to him, under date of the 27th October last year, respecting the blockade of the islands of Martinique and Guadaloupe, it is with great satisfaction, sir, that I have just received his majesty's commands signified to me by his principal secretary of state for foreign affairs, under date of the 6th January last, to communicate to you the instructions which have, in consequence of your representation, been sent to commodore Hood, and to the judges of the vice admiralty courts in the West Indies.

I have, accordingly, the honour to transmit to you, sir, enclosed, the copy of a letter from sir Evan Nepean, secretary to the board of admiralty, to Mr. Hammond, his majesty's under secretary of state for foreign affairs, specifying the nature of the instructions which have been given.

His majesty's government doubt not that the promptitude, which has been manifested in redressing the grievance complained of by the government of the United States, will be considered by the latter as an additional evidence of his majesty's constant and sincere desire to remove any ground of misunderstanding that could have a tendency to interrupt the harmony which so happily subsists between this government and that of the United States.

I have the honour to be, &c.

(Signed)

ANTH. MERRY.

ADMIRALTY OFFICE, JAN. 5, 1804.

SIR,

HAVING communicated to the lords of the admiralty lord Hawkesbury's letters of the 23d ultimo, enclosing the copy of a despatch which his lordship had received from

Mr. Thornton, his majesty's charge d'affaires in America, on the subject of the blockade of the islands of Martinique and Guadaloupe, together with the report of the advocate general.

Thereupon, I have their lordships' commands to acquaint you for his lordship's information, that they have sent orders to commodore Hood not to consider any blockade of those islands as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they have also sent the necessary directions on the subject to the judges of the vice admiralty courts in the West Indies and America. I am, &c.

(Signed)

EVEAN NEPEAN.

GEORGE HAMMOND, Esq.

Mr. Merry to Mr. Madison.

WASHINGTON, APRIL 12, 1804.

SIR,

I HAVE the honour to acquaint you that I have just received a letter from rear admiral sir John Duckworth, commander in chief of his majesty's squadron at Jamaica, dated the second of last month, in which he desires me to communicate to the government of the United States, that he has found it expedient for his majesty's service to convert the siege, which he lately attempted, of Curraçoa, into a blockade of that island.

I cannot doubt, sir, that this blockade will be conducted conformably to the instructions which, as I have had the honour to acquaint you in another letter of this date, have been recently sent on this subject to the commander in chief of his majesty's forces, and to the judges of the vice admiralty courts, in the West Indies, should the smallness of the island of Curraçoa still render necessary any distinction of the investment being confined to particular ports. I have the honour to be, &c.

(Signed)

ANT. MERRY.

Circular from Lord Harrowby to the ministers of neutral nations residing in London, communicated to Colonel Monroe.

DOWNING STREET, AUG. 9, 1804.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Monroe, that the king has judged it expedient (for the protection of his subjects and the annoyance of his enemies) to establish the most rigorous blockade at the entrances of the ports of Fecamp, St. Valéry-au-Caux, Dieppe, Treport, the Somme, Etaples, Boulogne, Calais, Gravelines, Dunkirk, Newport, and Ostend, and to maintain and enforce the same in the strictest manner, according to the usages of war acknowledged in similar cases. Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of the above mentioned ports are, and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of nations and the respective treaties between his majesty and the different neutral powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe, &c. &c.

(Signed)

HARROWBY.

GEORGE R.

INSTRUCTION

To our courts of admiralty, and to the commanders of our ships of war and privateers. Given at our court at St. James's, the 17th day of August, 1805, in the 45th year of our reign.

WE are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel, which shall be carrying on trade directly from the colonies of the enemy to the ports of this kingdom, and laden solely with the property of inhabitants of the neu-

tral country to which the ship belongs; provided such neutral ship has already cleared out, or shall clear out from such colony, prior to the first day of November next, and shall not have supplied the enemy with any articles contraband of war on the outward voyage, and shall not have entered or be coming from any blockaded port. And in case any neutral vessel, trading as aforesaid, hath been, or shall be detained or brought before any of our courts of admiralty, it is our will and pleasure, that such ships, together with their cargoes, be forthwith liberated.

By his majesty's command,

(Signed)

HAWKESBURY.

Mr. Fox to Mr. Monroe.

DOWNING STREET, APRIL 8, 1806.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Monroe, that, in consequence of his majesty the king of Prussia having taken possession of various parts of the electorate of Hanover, and other dominions belonging to his majesty, in a forcible and hostile manner; and having also notified, that all British ships shall be excluded from the ports of the Prussian dominions, and from certain other ports in the north of Europe, and not suffered to enter or trade therewith, in violation of the just rights and interests of his majesty, and his dominions, and contrary to the established law and practice of nations in amity with each other; his majesty has judged it expedient to establish the most rigorous blockade at the entrances of the Ems, the Weser, the Elbe and the Trave, and to maintain and enforce the same in the strictest manner, according to the usages of war, acknowledged and allowed in similar cases.

Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of the above mentioned rivers are and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of na-

tions, and the respective treaties between his majesty and the different neutral powers, will be adopted and executed with respect to vessels attempting to violate the said blockades after this notice.

The undersigned requests Mr. Monroe to accept the assurances of his high consideration.

(Signed)

C. J. FOX.

Mr. Fox to Mr. Monroe.

[See preceding vol. page 445.]

Lord Howick to Mr. Monroe.

DOWNING STREET, SEPT. 25, 1806.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Monroe, that the king having been pleased, on the 16th of May last, to cause it to be signified, that he had directed the necessary measures to be taken for the blockade of the coast, rivers, and ports, from the river Elbe, to the port of Brest, both inclusive, his majesty is now pleased to declare, that so much of such blockade as extended from the river Elbe to the river Ems, both inclusive, is for the present discontinued, and that from the date hereof, the navigation of the coast, rivers and ports, from the river Elbe to the river Ems, both inclusive, is as free as if such blockade had not taken place.

The undersigned requests Mr. Monroe to accept the assurances, &c. &c.

(Signed)

HOWICK.

At a court at the Queen's palace, the 7th of January, 1807, present, the King's most excellent majesty in council.

WHEREAS the French government has issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with his majesty's dominions, and also to prevent such nations from trading with any other country in any articles, the growth,

produce or manufacture of his majesty's dominions; and whereas the said government has also taken upon itself to declare all his majesty's dominions to be in a state of blockade, at a time when the fleets of France and her allies are themselves confined within their own ports by the superiour valour and discipline of the British navy; and whereas such attempts, on the part of the enemy, would give to his majesty an unquestionable right of retaliation, and would warrant his majesty in enforcing the same prohibition of all commerce with France, which that power vainly hopes to effect against the commerce of his majesty's subjects, a prohibition which the superiority of his majesty's naval forces might enable him to support by actually investing the ports and coasts of the enemy with numerous squadrons and cruisers, so as to make the entrance or approach thereto manifestly dangerous; and whereas his majesty, though unwilling to follow the example of his enemies by proceeding to an extremity so distressing to all nations not engaged in the war, and carrying on their accustomed trade, yet feels himself bound by due regard to the just defence of the rights and interests of his people not to suffer such measures to be taken by the enemy, without taking some steps on his part to restrain this violence, and to retort upon them the evils of their own injustice; his majesty is thereupon pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that no vessel shall be permitted to trade from one port to another, both which ports shall belong to or be in the possession of France or her allies, or shall be so far under their control as that British vessels may not trade freely thereat; and the commanders of his majesty's ships of war and privateers shall be, and are hereby instructed to warn every neutral vessel coming from any such port, and destined to another such port, to discontinue her voyage, and not to proceed to any such port; and any vessel, after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this his majesty's

order, which shall be found proceeding to another such port, shall be captured and brought in, and together with her cargo shall be condemned as lawful prize; and his majesties principal secretaries of state, the lords commissioners of the admiralty and the judges of the high court of admiralty, and the courts of vice admiralty are to take the necessary measures herein as to them shall respectively appertain. (Signed) W. FAWKENER.

Extract of a Letter from the honourable David M. Erskine, envoy extraordinary and minister plenipotentiary of his Britannic Majesty, to the Secretary of State of the United States, dated Philadelphia, June 26, 1807.

"I HAVE the honour to inform you, that his majesty has judged it expedient to re-establish the most rigorous blockade at the entrances of the rivers Ems, Weser, and Elbe inclusive, in consequence of the present position of the enemy upon the continent, which enables him to command the navigation of these rivers."

From the London Gazette,

BY THE KING,

A Proclamation for recalling and prohibiting British seamen from serving foreign princes and states.

[See preceding vol. page 260.]

At the court of the queen's palace, the 11th of November, 1807, present, the king's most excellent majesty in council.

[See preceding vol. p. 263.]

At the court at the queen's palace, the 11th of November, 1807, present, the king's most excellent majesty in council.

[See preceding vol. p. 268.]

At the court at the queen's palace, the 11th of November, 1807, present, the king's most excellent majesty in council.

[See preceding vol. p. 270.]

At the court at the queen's palace, the 25th of November, 1807, present, the king's most excellent majesty in council.

WHEREAS it has been represented that it would be expedient to fix certain periods, at which it shall be deemed that a reasonable time shall have elapsed for receiving information, at different places, of his majesty's order in council of the 11th of November instant, respecting the trade with his majesty's enemies, and in their produce and manufactures; his majesty, taking the same into consideration, and being desirous to obviate any difficulties that may arise in respect thereto, and also to allow ample time for the said order being known to all persons who may be affected thereby, is pleased, by and with the advice of his privy council, to order and declare, and it is hereby ordered and declared, that information of the said order of the 11th of November instant, shall be taken and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them; namely,

Ports and places within the Baltic—December 21, 1807.

Other ports and places to the northward of Amsterdam—December 11, 1807.

From Amsterdam to Ushant—December 4, 1807.

From Ushant to Cape Finisterre—December 8, 1807.

From Cape Finisterre to Gibraltar, inclusive—December 13, 1807.

Madeira—December 13, 1807.

Ports and places within the straits of Gibraltar, to Sicily and Malta, and the west coast of Italy, inclusive—January 1, 1808.

All other ports and places in the Mediterranean beyond Sicily and Malta—January 20, 1808.

Ports and places beyond the Dardanelles—February 1, 1808.

Any part of the north and western coast of Africa, or the islands adjacent, except Madeira—January 11, 1808.

The United States, and British possessions in North America and the West Indies—January 20, 1808.

Cape of Good Hope, and east coast of South America—March 1, 1808.

India—May 1, 1808.

China, and the coast of South America—June 1, 1808.

And every vessel sailing on or after those days, from those places respectively, shall be deemed and taken to have received notice of the aforesaid order: and it is further ordered, that if any vessel shall sail within twenty days after the periods above assigned respectively, from any of the said places, in contravention of the said order of the 11th of November instant, and shall be detained as prize on account thereof, or shall arrive at any port in this kingdom, destined to some port or place within the restriction of the said order, and proof shall be made to the satisfaction of the court of admiralty in which such vessel shall be proceeded against, in case the same shall be brought in as prize, that the loading of the said vessel had commenced before the said periods, and before information of the said order had actually been received at the port of shipment, the said vessel, together with the goods so laden, shall be restored to the owner or owners thereof, and shall be permitted to proceed on her voyage in such manner as if such vessel had sailed before the day so specified as aforesaid: and it is further ordered, that no proof shall be admitted, or be gone into, for the purpose of showing that information of the said order of the 11th of November instant had not been received at the said places respectively, at the several periods before assigned: and the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice-admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the queen's palace, the 25th of November, 1807, present, the king's most excellent majesty in council.

WHEREAS his majesty, by his order in council, dated 11th November instant, respecting the trade to be carried on with his majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels which shall have cleared out from any port or place in this kingdom, under such regulations as his majesty may think fit to prescribe, and shall be proceeding direct to the ports specified in the respective clearances, his majesty, taking into consideration the expediency of making such regulations, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels belonging to countries not at war with his majesty, shall be permitted to lade, in any port of the united kingdom, any goods being the produce or manufacture of his majesty's dominions, or East India goods, or prize goods, (all such goods having been lawfully imported) and to clear out with, and freely to convey the same to any port or place in any colony in the West Indies, or America, belonging to his majesty's enemies, such port or place not being in a state of actual blockade, subject to the payment of such duties as may at the time when any such vessels may be cleared out be due by law on the exportation of any such goods, or in respect of the same being destined to the ports of the colonies belonging to his majesty's enemies; and likewise to lade, clear out with, and convey as aforesaid, any articles of foreign produce or manufacture which shall have been lawfully imported into this kingdom, provided his majesty's license shall have been previously obtained for so conveying such foreign produce or manufactures:

And it is further ordered, that any vessel, belonging as aforesaid, shall be permitted to lade in any port of the united kingdom any goods, not being naval or military stores, which shall be of the growth, produce, or manufacture of this kingdom, or which shall have been lawfully

imported, (save and except foreign sugar, coffee, wine, brandy, snuff, and cotton,) and to clear out with, and freely to convey the same to any port, to be specified in the clearance, not being in a state of actual blockade, although the same shall be under the restrictions of the said order; and likewise to lade, clear out, and convey foreign sugar, coffee, wine, brandy, snuff, and cotton, which shall have been lawfully imported, provided his majesty's license shall have been previously obtained for the exportation and conveyance thereof: and it is hereby further ordered, that no vessel shall be permitted to clear out from any port or place in this kingdom to any port or place of any country subjected to the restrictions of the said order, with any goods which shall have been laden (after notice of the said order) on board the vessel which shall have imported the same into this kingdom, without having first duly entered and landed the same in some port or place in this kingdom; and that no vessel shall be permitted to clear out from any port or place in this kingdom, to any port or place whatever, with any goods the produce or manufacture of any country subjected to the restrictions of the said order, which shall have been laden after notice as aforesaid on board the vessel importing the same, without having so duly entered and landed the same; or any goods whatever, which shall have been laden, after such notice, in the vessel importing the same, in any port or place of any country subjected to the restrictions of the said order, without having so duly entered and landed the same in some port or place in this kingdom, except the cargo shall consist wholly of flour, meal, grain, or any article or articles the produce of the soil of some country which is not subjected to the restrictions of the said order, except cotton, and which shall have been imported in an unmanufactured state direct from such country into this kingdom, in a vessel belonging to the country from which such goods have been brought, and in which the same were grown and produced:

And it is further ordered, that any vessel belonging to

any country not at war with his majesty, may clear out from Guernsey, Jersey, or Man, to any port or place under the restrictions of the said order, which shall be specified in the clearance, not being in a state of actual blockade, with such articles only, not being naval or military stores, as shall have been legally imported into such islands respectively, from any port or place in this kingdom direct; and with respect to all such articles as may have been imported into the said islands respectively, from any port or place under the restrictions of the said order, it shall not be permitted to any vessel to clear out with the same from any of the said islands, except to some port or place in this kingdom: and the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the queen's palace, the 25th of November, 1807, present, the king's most excellent majesty in council.

WHEREAS his majesty, by his order in council dated the eleventh of November instant, respecting the trade to be carried on with his majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels belonging to any country not at war with his majesty, together with their cargo, which shall be coming from any port or place in Europe, which is declared in the said order to be subject to the restrictions incident to a state of blockade, direct to some port or place in Europe belonging to his majesty, and also all vessels which shall be cleared out from Gibraltar or Malta, under such regulations as his majesty may think fit to prescribe, and which shall be proceeding direct to the ports specified in their respective clearances:

And whereas it is expedient to encourage the trade from

Gibraltar and Malta to countries under the restrictions of the said order, subject to regulations to be made in respect thereto: his majesty is therefore pleased to prescribe the following regulations in regard to such trade, accordingly, and by and with the advice of his privy council, to order, and it is hereby ordered, that all sorts of flour and meal, and all sorts of grain, tobacco, and any other article in an unmanufactured state, being the growth and produce of any country not being subjected by the said order to the restrictions incident to a state of blockade, except cotton, and naval and military stores, which shall have been imported into Gibraltar or Malta direct from the country where the same were grown and produced, shall, without any license, be permitted to be cleared out to any port or place not being in a state of actual blockade, without the same being compelled to be landed: but neither the said article of cotton, however imported, nor any article which is not the growth, produce or manufacture of this kingdom, or which has not been imported in a British ship, or from this kingdom direct (except fish) and which shall have been laden at the port of original shipment after the period directed by an order of this date, to be taken as the time at which notice of the said order of the eleventh of November shall be considered as having been received at such port of shipment, shall be permitted to be exported from Gibraltar or Malta, except to some port or place in this kingdom; and all other articles of the growth, produce and manufacture of this kingdom, or which shall have been imported into Gibraltar or Malta in a British ship, or from some port or place in this kingdom, together with the article of fish, however imported, may be exported to any ports or places in the Mediterranean or Portugal, under such license only as is hereinafter directed to be granted by the governor of Gibraltar and Malta respectively:

And it is hereby further ordered, that licenses be granted by the governors, lieutenant governors, or other persons having the chief civil command at Gibraltar or at

Malta, respectively, but in his majesty's name, to such person or persons as the said governours, lieutenant governours, or persons having the chief civil command, shall think fit, allowing such person or persons to export from Gibraltar direct, to any port in the Mediterranean, or to any port of Portugal, or to any port of Spain without the Mediterranean, not further north than Cape Finisterre, and from Malta direct to any port, being within the Mediterranean, with any articles of the produce or manufacture of his majesty's dominions, and any articles which shall have been imported into Gibraltar or Malta from this kingdom, to whomsoever such articles shall appear to belong (not being naval or military stores) in any vessel belonging to any country not at war with his majesty, or in any vessel not exceeding one hundred tons burden, and being unarmed, belonging to the country to which such vessel shall be cleared out and going, and also to import in any such vessel or vessels as aforesaid, from any port within the Mediterranean, to Gibraltar or Malta; or from any port in Portugal or Spain as aforesaid, to Gibraltar, such port and such destination respectively to be specified in such license, any articles of merchandise whatsoever, and to whomsoever the same may appear to belong; such articles to be specified in the bill of lading of such vessel, subject however to such further regulations and restrictions, with respect to all or any of the said articles so to be imported, or exported, as may be inserted in the said licenses, by the governours, lieutenant governours, or other persons having the chief civil command at Gibraltar or Malta, for the time being, respectively, as to them shall, from time to time, seem fit and expedient:

And it is further ordered, that in every such license shall be inserted the names and residence of the person or persons to whom it shall be granted, the articles and their quantities permitted to be exported, the name and description of the vessel, and of the master thereof, the port to which the vessel shall be allowed to go, which shall be some port not under actual blockade; and that no license

so to be granted shall continue in force for longer than two months from its date, nor for more than one voyage; nor any such license to be granted, or acknowledged to be valid, if granted to permit the clearance of any vessel to any port which shall be actually blockaded by any naval force of his majesty or of his allies:

And it is further ordered, that the commanders of his majesty's ships of war and privateers, and all others whom it may concern, shall suffer every such vessel, sailing conformably to the permission given by this order, or having any license as aforesaid, to pass and repass direct between Gibraltar, or Malta, and such port as shall be specified in the license, in such manner, and under such terms, regulations and restrictions as shall be expressed therein:

And it is further ordered, that in case any vessel so sailing as aforesaid, for which any such license as aforesaid shall have been granted, and which shall be proceeding direct upon her said voyage, shall be detained, and brought in for legal adjudication, such vessel, with her cargo, shall be forthwith released by the court of admiralty or vice admiralty in which proceedings shall be commenced, upon proof being made that the parties had duly conformed to the terms, regulations, and restrictions of the said license; the proof of such conformity to lie upon the person or persons claiming the benefit of this order, or obtaining or using such license, or claiming the benefit thereof:

And it is hereby further ordered, that no vessel belonging to any state on the coast of Barbary shall be prevented from sailing, with any articles of the growth or produce of such state, from any port or place in such state, to any port or place in the Mediterranean or Portugal, such port or place not being actually blockaded by some naval force belonging to his majesty, or his allies, without being obliged to touch at Gibraltar or Malta:

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principle secretaries of state, the lords commissioners of the admiralty, and the

judges of the high court of admiralty and courts of vice admiralty are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the court at the queen's palace, the 25th of November, 1807, present, the king's most excellent majesty in council.

WHEREAS his majesty, by his order in council, of the eleventh of November instant, was pleased to order and declare. that all trade in articles which are of the produce or manufacture of the countries and colonies mentioned in the said order, shall be deemed and considered to be unlawful (except as is therein excepted ;) his majesty by and with the advice of his privy council, is pleased to order and declare, and it is hereby ordered and declared, that nothing in the said order contained shall extend to subject to capture or confiscation any articles of the produce and manufacture of the said countries and colonies laden on board British ships, which would not have been subject to capture and confiscation if such order had not been made : and the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the queen's palace, the 25th of November, 1807, present, the king's most excellent majesty in council.

His majesty, taking into consideration the circumstances under which Prussia and Lubeck have been compelled to shut their ports against British ships and goods, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all ships and goods belonging to

Prussia which may have been seized subsequent to his majesty's order of the nineteenth of November, one thousand eight hundred and six, and are now detained in the ports of this kingdom, or elsewhere, and all ships and goods belonging to inhabitants of Lubeck which are so detained, shall be restored upon being pronounced by the high court of admiralty, or any court of vice admiralty, in which they have been or may be proceeded against, to belong to subjects and inhabitants of Prussia or Lubeck, and not otherwise liable to confiscation; and that such ships and goods shall be permitted to proceed to any neutral port, or to the port to which they respectively belong: and it is further ordered, that the ships and goods belonging to Prussia or Lubeck shall not, until further orders, be liable to detention, provided such ships and goods shall be trading to or from any port of this kingdom, or between neutral port and neutral port, or from any port of his majesty's allies, and proceeding direct to the port specified in their respective clearances.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the court at the queen's palace, the 25th of November, 1807, present, the king's most excellent majesty in council.

His majesty taking into consideration the circumstances under which Portugal has been compelled to shut her ports against the ships and goods of his majesty's subjects, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all ships and goods belonging to Portugal which have been, and are now detained in the ports of this kingdom, or elsewhere, shall be restored, upon being pronounced, by the high court of

admiralty, or by the court of vice-admiralty, in which proceedings may have been, or shall be commenced, to belong to subjects and inhabitants of Portugal, and not otherwise liable to confiscation; and that the said ships and goods shall be permitted to proceed to any neutral port, or to Portugal: and it is further ordered, that the ships and goods belonging to Portugal shall not, until further orders, be liable to detention; provided, such ships and goods shall be trading to or from any port of this kingdom, or to and from Gibraltar or Malta, and proceeding direct to the port specified in their clearance, or between neutral port and neutral port, or between Portugal and the ports of her own colonies, or from any port of his majesty's allies, and proceeding direct to the ports specified in their respective clearances; provided, such ports shall not be at the time in a state of actual blockade: and it is further ordered, that the ships of Portugal shall not be considered as entitled, under any treaty between his majesty and Portugal, to protect any goods laden therein which may be otherwise subject to confiscation.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice-admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

[CIRCULAR.]

FOREIGN OFFICE, JAN. 8, 1808.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Pinkney, that his majesty has judged it expedient to establish the most rigorous blockade at the entrances of the ports of Carthagen, Cadiz, and St. Lucar, and of all the intermediate ports situated and lying between the said ports of Carthagen and St. Lucar. Mr. Pinkney is therefore requested to apprize the American consuls and merchants, residing in England, that the en-

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trances of all the ports above mentioned are, and must be considered as being in a state of blockade, and that from this time all the measures, authorized by the law of nations, and the respective treaties between his majesty and the different powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

(Signed)

GEORGE CANNING.

WILLIAM PINKNEY, Esq. &c. &c.

ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

CAP. XXVI.

An act for granting to his majesty, until the end of the next session of parliament, duties of customs on the goods, wares and merchandise therein enumerated, in furtherance of the provisions of certain orders in council. [March 28, 1808.]

MOST GRACIOUS SOVEREIGN,

WHEREAS measures which have been taken by powers at war with your majesty, prohibiting, in violation of the law of nations, all intercourse with this kingdom, and all trade in any articles of its growth or manufacture, have rendered it necessary for your majesty to issue orders in council to counteract the disadvantages which were thereby imposed upon the trade of your majesty's subjects, and to retaliate upon the enemy the evils which he intended to inflict upon this kingdom: And whereas it is expedient and necessary, in order effectually to accomplish the object of such orders, that duties of customs should be granted upon certain goods exported from Great Britain; we, your majesty's most dutiful and loyal subjects, the commons of the united kingdom, in parliament assembled, do most humbly beseech your majesty that it may be enacted; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and

by the authority of the same, That from and after the passing of this act, there shall be raised, levied, collected, and paid unto his majesty, his heirs and successors, upon all goods, wares, and merchandise, enumerated or described in the tables (A) (B) and (C) annexed to this act, exported from Great Britain, the several duties of customs, as the same are respectively described and set forth in figures in the said tables.

II. And be it further enacted, That the duties granted and imposed by this act, and made payable according to the weight, tale, gauge, measure, or value of any goods, wares, or merchandise charged with such duties, shall be charged and payable upon any greater or less weight, number, quantity, or value thereof than the weight, number, quantity, or value particularly inserted, described and set forth in the tables herunto annexed, marked (A) (B) and (C) in proportion to the actual weight, number, quantity, or value of such goods, wares, or merchandise.

III. And be it further enacted, That where any goods, wares and merchandise, which are allowed to be, or which shall have been warehoused, or otherwise secured, at the time of the importation thereof, without payment of the duties due thereon, shall be taken out or entered inwards for home consumption, and the duties of customs and excise then due thereon shall have been paid, and the same shall afterwards be entered for exportation, then and in every such case the duties of customs by this act imposed shall be paid on the exportation of the said goods, wares, and merchandise, notwithstanding the payment of any drawbacks to which the exporter thereof may in such case, under any law or laws then in force, be entitled.

IV. And whereas by an order in council dated the twenty-fifth of November, one thousand eight hundred and seven, it was ordered and declared, that information of a certain other order in council of the eleventh of November, one thousand eight hundred and seven, should be taken and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them, name-

ly, ports and places within the Baltic, on the twenty-first of December, one thousand eight hundred and seven; other ports and places to the northward of Amsterdam, on the eleventh of December, one thousand eight hundred and seven; from Amsterdam to Ushant, on the fourth of December, one thousand eight hundred and seven; from Ushant to Cape Finisterre, on the eighth of December, one thousand eight hundred and seven; from Cape Finisterre to Gibraltar inclusive, on the thirteenth of December, one thousand eight hundred and seven; Madeira, the thirteenth of December, one thousand eight hundred and seven; ports and places within the straits of Gibraltar to Sicily and Malta, and the west coasts of Italy inclusive, on the first of January, one thousand eight hundred and eight; all other ports and places in the Mediterranean beyond Sicily and Malta, on the twentieth of January, one thousand eight hundred and eight; ports and places beyond the Dardanelles, on the first of February, one thousand eight hundred and eight; any part of the north and western coast of Africa or the islands adjacent, except Madeira, on the eleventh of January, one thousand eight hundred and eight; the United States and British possessions in North America and the West Indies, on the twentieth of January, one thousand eight hundred and eight; Cape of Good Hope, and the east coast of South America, on the first of March, one thousand eight hundred and eight; India, on the first of May, one thousand eight hundred and eight; China and the coast of South America, on the first of June, one thousand eight hundred and eight; be it therefore enacted, that nothing in this act contained shall extend to prevent any vessel which shall have sailed from any such port or place before the period above specified as aforesaid, and which shall have been brought into or shall have come into any port in Great Britain under any warning given in pursuance of any of the said orders in council, from proceeding on her voyage to any port or place whatever, without entering or landing any part of her cargo in Great Britain (except cotton wool, or yarn, or Jesuits bark) and

without the payment of any duty granted by this act upon any part of the cargo (except cotton wool, or yarn, or Jesuits bark;) provided always, that if the port or place to which such vessel shall proceed, shall belong to a country in amity with his majesty, and from which the British flag is not excluded, such vessel shall in that case be permitted to proceed without being compelled to land any part of her cargo, or to pay any duty imposed by this act in respect of the same.

V. Provided always, and be it further enacted, That nothing in this act contained, shall extend to charge with any of the duties granted by this act, any goods, wares or merchandise (except cotton wool or yarn, and Jesuits bark) imported into Great Britain in any vessel, under any license, bearing date before the eleventh day of November last, or in any vessel which shall have been cleared out from the port or place from which such goods, wares or merchandise, were imported before the period in this act specified, as to such port or place as the period at which the said orders in council shall be taken and held to have been received, in any cases in which the said goods, wares or merchandise shall, upon their importation, have been or shall be warehoused for exportation only.

VI. Provided always, and be it further enacted, That nothing in this act contained shall extend to charge with any of the duties granted by this act, any goods, wares or merchandise on the exportation from Great Britain (except cotton wool or yarn, and Jesuits bark) which shall have been or shall be imported into Great Britain prior to the 1st day of June, 1808, from any free port in any of his majesty's plantations in the West Indies, or any other port or place, under any license from the governor of any of his majesty's plantations duly authorized for that purpose, bearing date prior to the 31st day of January last, in case such goods, wares or merchandise shall, on their importation into Great Britain, have been or shall be warehoused for exportation only.

VII. Provided also, and be it further enacted, That no

goods, wares or merchandise described in the said tables (A) and (B) of the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain by license in return for goods exported to the said island, bearing date prior to the fifth of February one thousand eight hundred and eight, and which shall have been or shall be warehoused for exportation, shall be liable, on the exportation thereof, to any of the duties of customs granted by this act; and all such goods, wares and merchandise, the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain under any license bearing date subsequently to the said fifth day of February, shall, upon the exportation thereof from Great Britain, be chargeable with, and subject and liable to one half part only of the duties of customs granted by this act upon goods, wares and merchandise of the like description, upon their exportation from Great Britain.

VIII. And be it further enacted, That all goods, wares or merchandise, which have been or may be condemned as prize, shall, on the exportation thereof from Great Britain, be charged with and subject and liable to the duties by this act imposed on the exportation of the like goods, wares or merchandise respectively, any law, custom or usage to the contrary notwithstanding: Provided always, that nothing in this act contained shall extend to charge with any of the duties granted by this act, any goods, wares or merchandise (except cotton wool or yarn, or Jesuits bark) which shall have been or shall be brought into any port in Great Britain for adjudication before the passing of this act, whether the same shall have been or shall be subsequently restored or condemned as prize.

IX. And be it further enacted, That the duties of customs described and set forth in figures in the said tables hereunto annexed, marked (A) (B) and (C) on the several goods, wares and merchandise specified therein, shall be paid to the proper officer authorized to receive the duties of customs on goods, wares and merchandise imported into Great Britain, and may and shall respectively be managed,

ascertained, raised, levied, collected, answered, paid, and recovered, except where any alteration is expressly made by this act, in such and the like manner, and by the same means, ways, or methods, as former duties of customs upon goods, wares, or merchandise, in general, and also by any such special means, ways, or methods respectively, as former duties of customs upon goods, wares or merchandise of the same sorts or kinds were or might be managed, ascertained, raised, levied, collected, answered, paid, and recovered; and the goods, wares or merchandise whereon duties of customs are by this act charged, as the same are respectively inserted, described, and set forth in the said tables, upon exportation thereof from Great Britain, shall be, and the same are hereby made subject and liable to all and every the conditions, regulations, securities, rules, restrictions, seizures, and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, regulations, restrictions, seizures, sales, and forfeitures respectively, to which the like goods, wares or merchandise were subject and liable by any act or acts of parliament, in force on and immediately before the passing of this act, respecting the revenue of customs, except where any alteration is expressly made by this act; and all pains, penalties, fines, and forfeitures, of whatever nature or kind the same may be, as well pains of death as others, for any offence whatever committed against or in breach of any act or acts of parliament in force on or immediately before the passing of this act, made for securing the revenue of customs, or for the regulation or improvement thereof, and the several clauses, powers, provisos, and directions contained in any such act or acts, shall (unless where expressly altered by this act) extend to and be respectively applied, practised, and put in execution, in respect of the several duties of customs hereby charged, in as full and ample a manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisos, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act, and made part thereof.

X. And be it further enacted, That in all cases where, by the said tables, the duties of customs by this act imposed upon the exportation of goods, wares and merchandise from Great Britain, are charged not according to the weight, tale, guage, or measure, but according to the value thereof, such value shall be considered as the same shall be at the port of exportation, without any deduction or abatement whatever; and such value shall be ascertained by the declaration of the exporter or proprietor of such goods, wares, or merchandise, or his known agent, in the manner and form, and under all the rules, regulations, and restrictions, and subject to the same forfeitures and penalties as are prescribed and directed for ascertaining and collecting the duties to be paid upon goods, wares, and merchandise, according to the value thereof, by an act passed in the twenty-seventh year of the reign of his present majesty, entitled, "An act for repealing the several duties of customs and excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the publick revenue, for permitting the importation of certain goods, wares and merchandise, the produce or manufacture of the European dominions of the French king, into this kingdom, and for applying certain unclaimed moneys remaining in the exchequer for the payment of annuities on lives to the reduction of the national debt;" and in case any goods, wares, or merchandise, chargeable with any such duty by this act, according to value, shall not be valued according to the true price or value thereof, and according to the true intent and meaning of this act, then it shall be lawful for the proper officer or officers of the customs, to cause the same to be detained; and the said goods, wares and merchandise, shall be dealt with, and the proper officer of the customs shall proceed, with relation to the said goods, wares and merchandise, so detained, in every respect in the manner prescribed in such case by the said recited act.

XI. And be it further enacted, That in case any goods, wares or merchandise, upon which duties of customs are

hereby imposed, shall be detained by any officer of the customs on account of the same not being valued according to the true and real value thereof, and according to the true intent and meaning of this act, it shall be lawful for the commissioners of his majesty's customs in England and Scotland respectively, for the time being, or any three or more of them respectively, upon proof being made to their satisfaction that no fraud was intended, to direct the entry to be amended, upon such terms and conditions as, under the circumstances of the case, shall appear to the said commissioners of the customs in England and Scotland respectively to be reasonable, and as they shall think fit to direct: Provided always, That if the importer, exporter, or proprietor of such goods, wares, or merchandise, shall accept the terms or conditions prescribed by the said commissioners of the customs respectively, such importer, exporter, or proprietor shall not have or be entitled to any recompense or damage on account of the detention of such goods, wares or merchandise, or have or maintain any action whatever for the same; any law, custom, or usage to the contrary notwithstanding.

XII. And be it further enacted, That such of the duties of customs by this act imposed, as shall arise in that part of Great Britain called England, shall be under the management of the commissioners of the customs in England for the time being; and such thereof as shall arise in that part of Great Britain called Scotland, shall be under the management of the commissioners of the customs in Scotland for the time being.

XIII. And be it further enacted, That in case the whole or any part of the cargo of any vessel, which shall arrive in any port of Great Britain, shall consist of any goods, wares, or merchandise whatever, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, such vessel shall forthwith proceed to the port of London, where all such goods, wares and merchandise shall be landed, lodged, and

secured under his majesty's lock, in some of the warehouses belonging to the said united company, at the expense of the proprietors of such goods, wares and merchandise, and be there examined, and an account taken thereof by the proper officers of the customs, and of the excise in cases where that revenue is concerned, and such goods, wares, and merchandise shall remain so secured until the exportation thereof; and before any such goods, wares, and merchandise shall be taken out of such warehouse for the purpose of exportation, the several duties of customs, as the same are described and set forth in figures in the table hereunto annexed, marked (C) shall be first paid to the proper officer of the customs; and in those cases in the said table marked (C) where the duties to be paid on the exportation of any such goods, wares, and merchandise shall not be charged according to the weight, tale, gauge, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the proprietor or his known agent, in the manner and form, and under the rules, regulations, and restrictions, and subject to the same forfeitures and penalties as are prescribed and imposed for ascertaining and collecting duties to be paid according to the value thereof, by the said recited act passed in the twenty-seventh year of his present majesty; and in case any such goods, wares, or merchandise, shall not be valued according to the true and real value thereof, then it shall be lawful for the proper officer or officers of the customs to cause the same to be detained, and the said goods, wares and merchandise, shall be dealt with, and the proper officers of the customs shall proceed in the manner prescribed in such case by the said recited act: provided always, that such goods, wares, or merchandise, so detained, (cotton wool excepted) shall be sold only for the purpose of being exported from Great Britain, any law, custom, or usage to the contrary notwithstanding: provided also, that in case any part of the cargo of any such ship or vessel so consisting in part of East Indian goods, wares, or merchandise, as aforesaid, shall consist of

goods, wares, or merchandise, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, such last mentioned goods, wares, and merchandise, shall be duly entered, either to be secured or lodged in warehouses, according to the rules, regulations, and restrictions, of an act passed in the forty-third year of his present majesty, entituled, an act for permitting certain goods imported into Great Britain to be secured in warehouse, without payment of duty; and of a certain other act, passed in the forty-fifth year of his present majesty, entituled, an act to authorize the lords commissioners of the treasury to permit certain articles to be warehoused in different ports in Great Britain, upon giving security for the payment of duties upon the articles therein mentioned; and of a certain other act, passed in the forty-sixth year of his said majesty, entituled, an act to extend the provisions of an act, made in the forty-third year of his present majesty, for permitting certain articles to be warehoused in Great Britain, to other articles not therein mentioned, and to alter the condition of the bond directed to be given by an act of the twenty-fourth year of his present majesty, by the masters and owners of vessels and boats licensed by the lords of the admiralty, provided such goods, wares and merchandise, by law may be so lodged or secured, otherwise the full duties of customs and of excise (in cases where any such duties are payable on such goods, wares, and merchandise) due thereon, shall be paid to the proper officers of the customs and excise; and all such goods, wares, and merchandise, so brought into the port of London, shall on the exportation thereof, be charged with the duties due and payable by this act on any such goods, wares, and merchandise respectively, as the same are described and set forth in the tables hereunto annexed, marked (A) and (B) as the case may be.

XIV. Provided always, and be it further enacted, That if it shall appear to the satisfaction of the collector and

comptroller of the customs of any port in Great Britain, by the report of any vessel which shall arrive at such port with any cargo, part whereof shall consist of goods, wares, or merchandise of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, that such goods, wares, and merchandise do not exceed in value one fourth part of the whole value of the cargo of such vessel, then and in such case it shall be lawful for the owner, consignee, or captain of such vessel, after giving such security as shall be directed by the commissioners of the customs in England and Scotland respectively, or any three of them, for the due conveyance of such goods, wares, and merchandise as aforesaid, to the port of London, there to be warehoused as aforesaid, and not before, to land the cargo of such vessel at the port of her arrival, except such goods, wares, and merchandise as aforesaid, and either to cause such goods, wares, and merchandise to be conveyed in the same ship to the port of London, or to cause the same to be transhipped in order to be conveyed to the said port, upon the said security, and under such regulations and restrictions for securing the conveying the same to the said port, as shall be directed by the commissioners of the customs in England and Scotland respectively.

XV. Provided always, and be it further enacted, That the proprietor or proprietors of any goods, wares, or merchandise, brought into Great Britain, may, if he or they shall be so disposed, instead of paying the full duties of customs and excise due and payable thereon, secure or lodge in warehouses approved by the commissioners of the customs of England or Scotland respectively, without payment of duty in the first instance, any goods, wares, and merchandise, which, by virtue of any law in force at the time of passing this act, are allowed to be so secured and warehoused, under the conditions and regulations of the said recited acts passed in the forty-third, forty-fifth, and forty-sixth years of his present majesty respectively; and

all such goods, wares, and merchandise, so warehoused, on which the full duties of customs and excise shall have been paid, shall, on the exportation thereof, be subject and liable to and be charged with the duties of customs imposed by this act, as inserted and set forth in the tables hereto annexed, as the case may be.

XVI. Provided always, and be it further enacted, That it shall be lawful for the commissioners of customs, or any three or more of them, upon the request of the owner, proprietor, or consignee of any goods, wares, or merchandise warehoused, to destroy the same, in such manner as they shall respectively direct, without payment of duty, and upon payment only of any charges and expenses due thereon.

XVII. And be it further enacted, That the importers, proprietors, or consignees of any goods, wares, or merchandise, which shall have been lodged in warehouses, or otherwise secured according to the directions of the said recited act, passed in the forty-third year of his present majesty, or any other act or acts of parliament, by virtue and under the authority of which any such goods, wares, or merchandise shall have been so lodged or secured, shall, within fifteen calendar months, to be computed from the day on which such importers, proprietors, or consignees of such goods, wares, or merchandise shall have made their first entry thereof, clear and take from and out of such warehouses or places respectively, all such goods, wares, and merchandise, either for the purpose of being exported according to the directions of this act, on payment of the duties hereby imposed, or to be used or consumed in Great Britain: provided always, that such goods, wares and merchandise may legally be taken out for that purpose, on payment of the full duties of customs and excise that are or may be due or payable thereon at the time the same are so taken out; and in case any such importers, proprietors, or consignees shall fail or neglect so to do, it shall be lawful for the commissioners of the customs in England or Scotland respectively, to cause all such goods,

wares, or merchandise, to be publickly sold, or exposed to sale; and after such sale, the produce thereof shall first be applied to or towards the payment of the freight, prime, and charges of warehouse room, and other charges that shall arise thereon, next to the duties of customs and excise, and the overplus (if any) shall be paid to the proprietor or other persons authorized to receive the same: provided always, that in case any goods, wares, or merchandise, so remaining and directed to be sold, shall be of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, or any goods, wares, and merchandise, which shall be prohibited to be used or consumed in Great Britain, then, and in such case, all such goods, wares or merchandise shall be sold only for the purpose of being exported; and not on any pretence whatever to be used or consumed in Great Britain: provided, that no such goods, wares, or merchandise, shall be so sold, unless a price can be obtained for the same, equal at least to the full amount of all duties of customs and excise, charged and chargeable thereon, together with the expenses; but if such price cannot be obtained, then and in such case, all such goods, wares or merchandise, shall be effectually destroyed by and in the presence of the proper officers of the customs, and also the officers of the excise, in case any duties of excise are payable thereon, who are hereby respectively authorized and required to destroy the same accordingly; and the proprietor or owner of such goods, wares, and merchandise, shall have no claim, either in law or equity, to the value of such goods, wares, or merchandise, or any part thereof, so destroyed as aforesaid; any law, custom or usage to the contrary notwithstanding: provided always, that all such goods, wares and merchandise, may be re-exported to the country from which they were brought, or to the country from which the vessel, in which such goods, wares or merchandise, were imported, shall belong, or shall have belonged, without payment of the

duties imposed by this act, and upon payment only of such warehouse or port duties as shall have become due thereon; provided, that the British flag shall not, at the time of such re-exportation, be excluded from such country respectively.

XVIII. Provided always, and be it further enacted, That nothing in this act contained shall extend or be construed to extend, to charge the duties imposed by this act on any goods, wares, or merchandise whatever, that shall be exported from Great Britain to that part of the united kingdom called Ireland, or any goods, wares or merchandise, the growth, produce or manufacture of Ireland, having been imported from thence directly to Great Britain, on the exportation thereof to any country whatever.

XIX. Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duties by this act imposed on the exportation of any flour or meal, or articles not being either in the whole or in part manufactured, being of the growth or produce of any state in Europe or America, in amity with his majesty, and imported in any ship belonging to such state, or in any British ship navigated according to law, directly from any such state (except coffee, sugar, pimento, cocoa nuts, hides, tallow, oil, and cotton wool or yarn, or Jesuits bark.)

XX. Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties imposed by this act, any goods, wares or merchandise, of the growth, produce or manufacture of any British colony, plantation or settlement in Africa or America, which shall have been imported directly from such colony, plantation or settlement respectively, and exported to any port or place whatever.

XXI. Provided also, and be it further enacted, That nothing in this act contained shall extend or be construed to extend, to charge with the duties imposed by this act, any goods, wares or merchandise that shall have been imported by the united company of merchants of England trading to the East Indies, or by any subjects of his ma-

jeaty trading within the limits of the charter of the said company, with their license, upon the exportation of such goods, wares or merchandise, from Great Britain to any port or places whatever.

XXII. Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duty by this act imposed on any wine, spirits or tobacco, which shall be shipped for the use of his majesty's army or navy, but such wine, spirits, or tobacco shall be subject and liable to all and every the rules, regulations, and conditions, limitations, securities, penalties, and forfeitures, to which such articles so shipped would have been subject and liable, if this act had not been made.

XXIII. Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties by this act imposed any the goods, wares, or merchandise, exported from Great Britain to the Isle of Man, by virtue and under the authority of any license which the commissioners of his majesty's customs in England or Scotland, or any three or more of them respectively, are or may be by law authorized and empowered to grant.

XXIV. Provided always, and be it further enacted, That the duties by this act imposed on goods, wares and merchandise exported from Great Britain, shall not be charged or payable on any goods, wares or merchandise not manufactured either in whole or in part, nor upon any wine or any article of provision (spirits excepted) exported to any British colony, plantation or settlement in Africa or America, or to any British settlement within the limits of the charter granted to the united company of merchants of England trading to the East Indies; any thing in this act to the contrary notwithstanding.

XXV. And be it further enacted, That no ship or vessel of the United States of America, which shall enter any port in Great Britain or Ireland, in consequence of her having been warned not to proceed to a blockaded port

under his majesty's order in council of the 11th November, 1807, shall be liable to be charged with the duty of two shillings a ton of the burden of any ship or vessel belonging to the inhabitants of the said United States, imposed by an act of the thirty-seventh year of his majesty's reign, which has been continued and revived by the several subsequent acts.

XXVI. Provided always, and be it further enacted, That nothing herein contained, shall extend to affect or take away any of the rights or privileges of the West India Dock company, of the London Dock company, or of the East India Dock company.

XXVII. And be it further enacted, That the duties granted and imposed by this act shall continue in force until the end of the next session of parliament, unless his majesty, by his order in council, shall think fit to suspend or reduce the same, or any part thereof.

XXVIII. Provided always, and be it further enacted, That it shall be lawful for his majesty, at any time, by order in council, to suspend the operation of this act, as to any duties, or any proportion or part of any duties granted by this act, in respect of any country for the time being, in amity with his majesty, and to allow the exportation to any such country so in amity with his majesty as aforesaid, of any goods, wares and merchandise, made subject by this act to any duties on exportation, without the payment of such duties, upon such terms and conditions, and subject to such restrictions, as to his majesty may seem fit.

XXIX. Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to prevent his majesty from prohibiting the exportation of any articles, matters, or things, to any country or place from which the British flag is excluded, in any case in which it would have been lawful for his majesty to prohibit such exportation, if this act had not passed.

XXX. Provided always, and be it further enacted, That the duties imposed by an act, passed in the forty-third year

of his present majesty's reign, entitled, "An act for granting to his majesty during the present war, and until the ratification of a definitive treaty of peace, additional duties on the importation and exportation of certain goods, wares and merchandise, and on the tonnage of ships and vessels in Great Britain, on certain goods, wares and merchandise, therein enumerated and described, and which by another act passed in the forty-third year of his present majesty's reign, entitled, "An act for permitting certain goods imported into Great Britain to be secured in warehouses without payment of duty, were directed to be paid on all such goods, wares and merchandise (sugar excepted) which should be exported from the warehouses or places in which such goods, wares and merchandise had been lodged or secured, under the directions of the said last recited act, shall not be due or payable on any such goods, wares and merchandise so exported, on which other duties are charged, according to the table marked (A) hereunto annexed; but that the duties on any such goods, wares and merchandise, as set forth in the said table, shall, during the continuance of such duties, be instead and in lieu of the duties charged and imposed thereon by the said two last recited acts passed in the forty-third year of his present majesty's reign.

XXXI. And be it further enacted, That all the moneys arising from the duties of customs by this act imposed (the necessary charge of raising and accounting for the same excepted) shall from time to time be paid into the receipt of his majesty's exchequer at Westminster, distinctly and apart from all other branches of the publick revenue; and that there shall be provided and kept in the office of the auditor of the said receipt of exchequer, a book or books in which all the moneys arising from the said duties, and paid into the said receipt as aforesaid, shall be entered separate and apart from all other moneys paid and payable to his majesty, his heirs and successors, upon any account whatever; and the said moneys so paid in as aforesaid, into the receipt of his majesty's exchequer, shall from time to

time, as the same shall be paid into the said receipt, be issued and applied to such services as shall then have been voted by the commons of the United Kingdom of Great Britain and Ireland in this present session of parliament, for the service of the year one thousand eight hundred and eight, or shall be voted by the said commons for the service of any subsequent year.

XXXII. And be it further enacted, that if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this act, or of any order in council referred to in this act, such action or suit shall be commenced within three calendar months next after the fact committed, and not afterwards, and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant or defendants in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinued his, her, or their action or suit, after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant had in other cases to recover costs by law.

XXXIII. And be it further enacted, That this act may be varied, altered, or repealed, by any act or acts to be made in this present session of parliament.

TABLES TO WHICH THIS ACT REFERS.

TABLE (A.)

A TABLE of duties of customs payable on the exportation of certain foreign goods, wares, and merchandise, therein enumerated or described, not being imported by the United Company of Merchants of England trading to the East

Indies, (which on importation, are allowed to be assessed under the regulations of the 46 Geo. III. cap. 122, 46 Geo. III. cap. 87, and 46 Geo. III. cap. 137, without payment of the duties due thereon); and which shall be exported from Great Britain; except as is provided in the act to which this table is annexed.

Arabic gum; see gum. Barilla, the cwt. 10s. Bark, viz. Jesuits bark or cortex peruvianus, the lb. 6s. Bew-sprits; see masts, in wood. Brandy; see spirits. Buffalo hides; see hides. Bull hides; see hides. Cochineal, the lb. 7s. Cocoa nuts, the cwt. 1l. Coffee, the cwt. 1l. 8s. Cortex Peruvianus; see bark. Cotton wool; see wool. Cotton yarn; see yarn. Cow hides; see hides. Currants, the cwt. 9s. Denia raisins; see raisins. Fare raisins; see raisins. Figs, the cwt. 7s. Fir timber; see timber, in wood. Geneva; see spirits. Ginger, the cwt. 7s. Gum, viz. Arabic, the cwt. 10s. Senega, the cwt. 10s. Hemp, rough or undressed, the cwt. 15s. Hides, viz. buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide 3s. Jalap, the lb. 6d. Jesuits bark; see bark. Indigo, the lb. 2s. Iron, in bars, the ton, containing 20 cwt. 3l. Kelp, in bars, the ton, containing 20 cwt. 4l. Lexia raisins; see raisins. Lipari raisins; see raisins. Mahogany; see wood. Manna, the lb. 6d. Masts; see wood. Molasses, the cwt. 5s. Oak timber; see timber, in wood. Oars; see wood. Oil, viz. ordinary oil of olives, the tun, containing 252 gallons, 10l. 10s. Sallad oil, the gallon, 1s. Ox hides; see hides. Pimento, the lb. 2d. Pitch, the last, containing 12 barrels, each barrel not exceeding 31½ gallons, 4s. 4d. Prize goods, viz. Goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table—for every 100l. of the value thereof, 20l. Prohibited goods, viz. Goods, wares or merchandise, not being of the growth,

produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies—for every 100*l.* of the value thereof, 20*l.* Quicksilver, the lb. 1*s.* Raisins, the cwt. viz. Belvidere raisins, 4*s.* 6*d.* Denia raisins, 4*s.* Faro raisins, 4*s.* 6*d.* Lexia raisins, 4*s.* 6*d.* Lipari raisins, 4*s.* 6*d.* Smyrna raisins, 5*s.* Raisins of the sun, 9*s.* 4*d.* Not otherwise enumerated or described, 4*s.* Raw silk; see silk. Rhubarb, the lb. 2*s.* Rice, the cwt. 2*d.* Rosin, the cwt. 9*d.* Rum; see spirits. Saffron, the lb. 3*s.* Sallad oil; see oil. Sena, the lb. 6*d.* Silk, viz. Raw, 2*s.* 6*d.* Thrown, 4*s.* 2*d.* Waste, 6*d.* Smalts, 6*d.* Smyra raisins; see raisins. Spirits, viz. Brandy, single, the gallon, 8*d.* above proof, 1*s.* 4*d.* Geneva, single, 8*d.* above proof, 1*s.* 4*d.* Rum, single, 8*d.* above proof, 1*s.* 4*d.* of any other kind, single, 8*d.* above proof, 1*s.* 4*d.* Sugar, the cwt. viz. Brown or Muscovado, 10*s.* White or clayed, 14*s.* Tallow, the cwt. 7*s.* Tar, the last, containing 12 barrels, each barrel not exceeding 31½ gallons, 4*s.* 4*d.* Timber; see wood. Tobacco, the lb. 1½*d.* Turpentine, common, the cwt. 3*s.* 6*d.* Waste silk; see silk. Wine of all sorts, the tun, containing 252 gallons, 6*l.* Wood, viz. Mahogany, the ton, containing 20 cwt. 1*l.* Masts, yards and bowsprits, viz. six inches in diameter, and under eight inches, the piece, 5*s.*—eight inches in diameter, and under twelve inches, the piece, 10*s.*—twelve inches in diameter, or upwards, the load, containing 50 cubic feet, 1*l.* 7*s.* Oars, the 120, 2*l.* Timber of all sorts, the load, (containing 50 cubic feet) 1*l.* 7*s.* Wool, viz. Cotton wool of all sorts, the lb. 9*d.* Yards; see masts, in wood. Yarn, viz. Cotton yarn, 2*s.* All other goods, wares and merchandise, having been, or which are allowed to be secured under the regulations of the 43 Geo. III. cap. 132. 45 Geo. III. cap. 3. 87. and 46 Geo. III. cap. 137, for every 100*l.* of the produce and amount of the duties of customs, chargeable on the importation thereof, by 43 Geo. 3. cap. 68, 40*l.*

For the several exemptions from the duties charged in

this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

TABLE (B.)

A TABLE of duties of customs payable on the exportation of certain foreign goods, wares and merchandise therein enumerated or described (not being allowed to be secured under the regulations of the 43 Geo. III. cap. 152, 45 Geo. III. cap. 87, and 46 Geo. III. cap. 137, without payment of the duties due thereon) not having been imported by the united company of merchants of England trading to the East Indies, and which shall be exported from Great Britain; except as is provided in the act to which this table is annexed.

Anchors, for every 100*l.* of the value, 40*l.* Annatto, the cwt. 2*l.* 8*s.* 4*d.* Argol, 5*s.* Ashes, viz. pot and pearl ashes, 10*s.* Bark, viz. oak bark, 2*s.* 6*d.* Barley; see corn. Beans; see corn. Beef, salted, 15*s.* Beer or bigg; see corn. Bread or biscuit, 4*s.* Butter, 1*l.* Cables, 18*s.* Cassia lignea the lb. 6*s.* Cheese, the cwt. 15*s.* Cochineal dust, the lb. 3*s.* 6*d.* Copper, viz. copper in bricks, rose copper, cast copper, and copper in plates, the cwt. 2*l.* Cordage, 18*s.* Corn, viz. Wheat, the quarter, 10*s.* 3*d.* Rye, 5*s.* Pease, 5*s.* Beans, 5*s.* Barley, 5*s.* Beer or bigg, 5*s.* Oats, 5*s.* Wheatmeal and flour, the cwt. 5*s.* Indian corn or maize, the quarter, 5*s.* Oatmeal, the boll, containing 140*lb.* avoirdupoise, or 128*lb.* Scotch troy, 5*l.* Fish, viz. Stock fish, the 120, 2*s.* 6*d.* not otherwise enumerated or described, the cwt. 4*s.* Flax, rough or undressed, 15*s.* Flax seed, or linseed; see seed. Galls, 1*l.* Granilla, the lb. 5*s.* Indian corn, or maize; see corn. Iron, viz. Pig iron, the ton, containing 20 cwt. 1*l.* 10*s.* Isinglass, the cwt. 5*l.* Lemons, the 1000, 1*l.* Linseed; see seed. Maddar, viz. Mull, the cwt. 1*s.* 3*d.* Root, 1*s.* of any other sort. 10*s.* Oak bark; see bark. Oakum,

the cwt. 4s. Oatmeal; see corn. Oats; see corn. Oils, viz. seed oil of all sorts, the tun, (containing 252 gallons) 10l. 10s. Oranges, the 1000, 1l. Pease; see corn. Pig iron; see iron. Pork, the cwt. 17s. 6d. Prize goods, viz. goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table, for every 100l. of the value thereof, 20l. Rye; see corn. Safflower, the cwt. 1l. Salt, the bushel (containing 56lbs.) 2s. Saltpetre, the cwt. 1l. 8s. Seed, viz. linseed, or flaxseed, the bushel, 1s. 6d. Seed oil; see oil. Spanish wool; see wool. Tow, the cwt. 5s. Valonia, the cwt. 5s. Verdigris, viz. common, the lb. 6d. crystalized, 1s. Wheat; see corn. Wheatmeal and flour; see corn. Wool, viz. Spanish wool, the cwt. 5l. Yarn, viz. raw linen yarn made of flax, 10s.

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

TABLE (C.)

A TABLE of duties of customs payable on the exportation of goods, wares, and merchandise, being of the growth, produce or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, not having been imported by the said company, and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Annotto, the cwt. 4l. Arabic gum; see gum. Arrack; see spirits. Bandanna handkerchiefs; see handkerchiefs. Barilla, the cwt. 8s. Bark, viz. Jesuits bark, or Cortex

Peruvianus, the lb. 6s. Brandy; see spirits. Buffalo hides; see hides. Bull hides; see hides. Callicoos, viz. white, whether plain, flowered, or stitched, for every 100l. of the value. 25l.—printed, painted, stained, or dyed, for every 100l. of the value. 25l. Cassia lignea, the lb. 6s. China ware, or earthen ware, for every 100l. of the value, 25l. Cinnamon, the lb. 6s. Cloves, 3s. Cochineal, 7s. do. dust, 3s. 6d. Coconuts, the cwt. 1l. Coffee, 1l. 8s. Copper, viz. copper in bricks, rose copper, cast copper, and copper in plates, the cwt. 2l. Cortex Peruvianus; see Jesuits bark in bark. Cotton manufactures, not otherwise enumerated or described, for every 100l. of the value, 25l. Cotton wool; see wool. Cotton yarn; see yarn. Cow hides; see hides. Dimity, viz. plain white dimity, for every 100l. of the value, 25l. Earthenware; see China ware. Flax, rough or undressed, the cwt. 10s. Galls, the cwt. 1l. 5s. Ginger, the cwt. 7s. Granilla, the lb. 5s. Gum, viz. Arabic, the cwt. 10s. Senega, the cwt. 10s. Handkerchiefs of silk, printed, painted, stained, or dyed, each 1s. 6d. Hemp, rough or undressed, or any other vegetable substance of the nature and quality of undressed hemp, and applicable to the same purposes, the cwt. 15s. Hides, viz. buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide 3s. Jesuits bark; see bark. Indigo, the lb. Mace, the lb. Madder root, the cwt. 15s. Manna, the lb. 6d. Molasses, the cwt. 5s. Muslins, plain, for every 100l. of the value 25l. Nanquin cloths, for every 100l. of the value 25l. Nutmegs, the lb. 5s. Oil, the oz. viz. Of cinnamon, 2s. Of cloves, 2s. Of mace, 5s. Of nutmegs, 4s. Ox hides; see hides. Pepper, the lb. 3d. Prize goods, viz. Goods, wares, and merchandise, taken and condemned as prize, being of the growth; produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England, trading to the East Indies, and not particularly enumerated or charged with duty in this table, for every 100l. of the value thereof, 20l. Quicksilver, the lb. 1s. Raw silk; see silk. Rhubarb, the lb. 2s. Rice, the cwt:

2s. Rum ; see spirits. Safflower, the cwt. 1*l*. 7s. Saffron, the lb. 3s. Saltpetre, the cwt. 1*l*. 8s. Sena, the lb. 6*d*. Senega gum ; see gum. Silk, viz. Handkerchiefs ; see handkerchiefs. Raw silk, the lb. 2s. 6*d*. Waste silk, the lb. 6*d*. Spirits, viz. Arrack, single, the gallon 1s. Double, the gallon 2s. Brandy, single, the gallon 8*d*. Double, the gallon 1s. 4*d*. Rum, single, the gallon 8*d*. Double, the gallon 1s. 4*d*. Of any other kind, single, the gallon 8*d*. Double, the gallon 1s. 4*d*. Sugar, viz. Brown or muscovado, the cwt. 10s. White or clayed, the cwt. 14s. Tea, viz. black, the lb. 1s. Green, the lb. 2s. Tobacco, the lb. 1½*d*. Waste silk ; see silk. Wool, viz. cotton wool, the lb. 9*d*. Yarn, viz. cotton yarn, the lb. 2s. Goods, wares, or merchandise, not particularly enumerated or described in this table, being prohibited to be worn, used, or consumed in Great Britain, for every 100*l*. of the value, 25*l*. All goods, wares, and merchandise, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, not particularly enumerated or described in this table, and not having been imported by the said company, for every 100*l*. of the produce and amount of those duties of customs imposed by the 43 Geo. III. cap. 68. on such goods, wares, or merchandise respectively, when imported by the said company, which are due and payable when the same are taken out of the warehouse, for the purpose of being used or consumed in Great Britain, 40*l*.

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

GEORGE R.

Instructions to the commanders of our ships of war and privateers. Given at our court at Windsor, the 11th day of April, 1808, in the forty-eighth year of our reign.

OUR will and pleasure is, that you do not interrupt any neutral vessel laden with lumber and provisions, and going to any of our colonies, islands, or settlements, in the West Indies, or South America, to whomsoever the property may appear to belong, and notwithstanding such vessel may not have regular clearances and documents on board; and in case any vessel shall be met with, and being on her due course to the alleged port of destination, an endorsement shall be made on one or more of the principal papers of such vessels, specifying the destination alleged, and the place where the vessel was so visited; and in case any vessel so laden shall arrive and deliver her cargo at any of our colonies, islands or settlements aforesaid, such vessel shall be permitted to receive her freight, and to depart, either in ballast, or with any goods that may be legally exported in such vessel, and to proceed to any unblockaded port, notwithstanding the present hostilities, or any future hostilities which may take place; and a passport for such vessel may be granted to the vessel by the governour, or other person, having the chief civil command of such colony, island, or settlement.

G. R.

ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

CAP. XXXIV.

An act to prohibit, until the end of the next session of parliament, the exportation of cotton wool from Great Britain.
[April 14, 1808.]

WHEREAS it is expedient to prohibit, for a limited time, the exportation of cotton wool from Great Britain, except in the manner hereinafter mentioned; be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal,

and commons, in this present parliament assembled, and by the authority of the same, That from and after the passing of this act, no person or persons whatever shall directly or indirectly export, carry, or convey, or cause or procure to be exported, carried, or conveyed out of or from any port or place in Great Britain, or shall load or lay on board, or cause or procure to be laden or laid on board, in any ship or other vessel or boat, any cotton wool, in order to be carried, exported or conveyed out of any such port or place, except to Ireland, and also except as hereinafter is provided.

II. Provided always, and be it further enacted, That it shall be lawful for his majesty, by any license under his royal sign manual, to authorize any person to export from Great Britain for his or their own account, or for account of any subject or subjects of any state in amity with his majesty, any cotton wool, under such regulations, restrictions, and securities, as may be specified in the said license.

III. And be it further enacted, That all cotton wool which shall be so exported, carried, or conveyed in or laid on board any ship or other vessel or boat, in order to be exported, carried, or conveyed out of Great Britain, contrary to this act, shall be forfeited; and that every offender therein shall forfeit also the sum of forty shillings for every pound weight of such cotton wool which shall be so exported, carried, or conveyed, or so laden in or laid on board any ship or other vessel or boat, in order to be exported, carried or conveyed out of Great Britain; and also the ship, vessel or boat, wherein the same shall be exported, or in or upon which the same shall be laden or laid in order to be exported, together with her guns, furniture, ammunition, tackle, and apparel, shall be forfeited; and the same respectively may be seized by any officer or officers of the customs.

IV. Provided always, and be it further enacted, That nothing in this act contained shall extend to prevent any cotton wool being carried coast wise, upon any certificate which shall be directed to be given by the commissioners of the customs in that behalf.

V. And be it further enacted, That all penalties and forfeitures, created and incurred by this act, shall and may be sued for, prosecuted, recovered, and disposed of, in such manner, and by such ways, means, and methods, as any penalties incurred on any goods, ships or vessels, forfeited for any offence against the laws of customs, may now be legally sued for, prosecuted, recovered, and disposed of; and the officer or officers, concerned in seizures or prosecutions under this act, shall be entitled to and receive such share of the produce arising from the seizures, as they are now by law entitled to upon prosecution of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty, or compensation, paid for any offence against this act, as they are now by any law or regulation entitled to upon prosecution for pecuniary penalties.

VI. And be it further enacted, That all personal actions and suits, indictments, informations, and all prosecutions and proceedings whatsoever, which have been or shall hereafter be prosecuted or commenced against any person or persons, for having refused to receive any entry or entries for the exportation of any cotton wool, or to clear out any ship or vessel laden with cotton wool intended to be exported, before the passing of this act, are and shall be discharged and made void by virtue of this act; and that if any action or suit shall be prosecuted or commenced against any person or persons, for or by reason of any such act, matter or thing, he, she, or they may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff or plaintiffs in any action or suit, so to be prosecuted or commenced, shall become nonsuited, or forbear further prosecution, or suffer discontinuance, or if a verdict pass against such plaintiff or plaintiffs, the defendant or defendants shall recover his, her, or their double costs; for which he, she, or they shall have the like remedy, as in cases where the costs by law are given to the defendant.

VII. And be it further enacted, That this act may be

altered, amended, or repealed, by any act or acts to be made in this present session of parliament.

VIII. And be it further enacted, That this act shall continue and be in force until the end of the next session of parliament.

ANNO QUADRAGESIMO OCTAVO

GEORGE III. REGIS.

CAP. XXXVII.

An act for making valid certain orders in council, and warrants of the commissioners of the treasury, for the entry and warehousing of certain goods imported in neutral vessels, and for indemnifying all persons concerned therein; for the remitting of forfeitures in certain cases; and for enabling his majesty to allow, during the continuance of hostilities, and until two months after the commencement of the next session of parliament, the importation of goods from countries from which the British flag is excluded, in any vessels whatever. [April 14, 1808.]

WHEREAS several neutral vessels, bound to ports on the continent of Europe, from which the British flag has been excluded, have arrived in the ports of the united kingdom, having been warned or brought into such ports in consequence of his majesty's orders in council for that purpose, and parts of the cargoes of such vessels have been admitted to entry for home consumption, or warehoused for exportation; and other parts of such cargoes, consisting of goods the growth, produce, or manufacture of countries within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, not imported by the said company, have been warehoused for exportation only: and whereas, in consequence of the late events in Portugal, wine and other commodities have been brought from the dominions of the crown of Portugal in vessels not owned and navigated according to law, and have been admitted to entry or warehoused in

the same manner, and subject to the same duties only, as if the same had been imported in British-built vessels, owned and navigated according to law : and whereas such goods have been so entered and warehoused in obedience to orders of council, and warrants of the commissioners of his majesty's treasury, which it has been deemed expedient, under the circumstances, to issue for such purposes ; which orders and warrants, and the proceedings thereupon, were not authorized by law ; but it is expedient, under the circumstances, that the same should be authorized by act of parliament ; and it is also expedient that the importation of goods from countries from which the British flag is excluded, shall be allowed, for a limited time, in any vessels : be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all such importations, admissions to entry, warehousing for home consumption, or for exportation, and securing in warehouses goods of the produce, or manufacture of places within the limits of the charter granted to the East India company for exportation only ; and also all importations and admissions to entry, and warehousing of goods and commodities from the dominions of the crown of Portugal, which have been made as aforesaid, before the passing of this act, whether under orders in council, or by warrants of the commissioners of the treasury, shall be deemed and taken good in law ; and all persons concerned in advising, issuing, or carrying the same into execution, shall be and are hereby indemnified accordingly ; any thing in any act of parliament to the contrary notwithstanding ; and no vessels, goods or commodities which have been admitted to entry, or imported, or warehoused, or secured under any such order or warrant, shall be subject to any forfeiture, or the owner thereof be subject to any penalty by reason thereof.

II. And be it further enacted, That it shall be lawful for the importers, proprietors, or consignees of any goods

or commodities that may have been, or which shall be brought into any port of the united kingdom, in any ship or vessel which shall have come in, in consequence of any warning under the said orders in council, or in any ship or vessel which shall have sailed from any port or place within the respective limits enumerated in his majesty's orders in council of the 25th day of November, 1807, before the respective days specified in the said order, on or after which days the vessels sailing from such ports or places, are to be deemed to have received notice of the aforesaid order of the 11th day of November, 1807, duly to enter and land any such goods or commodities, either for the purpose of securing the same in warehouses for exportation or on payment of the full duties of customs and excise due thereon, as the case may warrant; and that no ship or vessel so arriving as aforesaid shall be liable to forfeiture, or the owners or proprietors thereof to any penalty by reason of such ship or vessel not being built, owned or navigated according to law, or not being in any other respect legally authorized to import into this kingdom the goods or commodities of which the cargo shall consist, nor shall any goods or commodities being part of the cargo of any such ship or vessel so brought in as aforesaid, be liable to forfeiture, or the owners thereof to any penalty by reason of any such goods or commodities being in packages not allowed by law, or for being in any other manner prohibited to be imported into this kingdom, any law, custom or usage to the contrary notwithstanding.

III. And be it further enacted, That it shall be lawful for his majesty by order in council or license, and in Ireland for the lord lieutenant or other chief governour or governours, and the privy council of Ireland by order in council or license, when and as often as the same shall be judged expedient, to permit during the continuance of hostilities and until two months after the commencement of the next session of parliament, any such goods, wares or merchandise as shall be specified in such order in council or license, to be imported into any port of Great Britain or

Ireland respectively, from any port or place from which the British flag is excluded, in any ship or vessel belonging to any country, whether in amity with his majesty or not; any law in force in the united kingdom, or in Great Britain or Ireland respectively, to the contrary in any wise notwithstanding.

IV. Provided always, That nothing herein contained shall extend, or be construed to extend, to exempt from seizure any goods or commodities which shall be unshipped, or attempted to be unshipped, for the purpose of being illegally conveyed on shore, or before due entry shall have been made thereof.

V. And be it farther enacted, That this act may be altered, amended or repealed, by any act or acts to be passed in this session of parliament.

Mr. Canning to Mr. Pinkney.

[See present vol. p. 377.]

ANNO QUADRAGESIMO OCTAVO

GEORGE III. REGIS.

CAP. LXXXV.

An act to regulate the trade between Great Britain and the United States of America, until the end of the next session of parliament.

[June 23, 1808.]

WHEREAS it is expedient to permit goods, wares and merchandise being of the growth, produce and manufacture of the United States of America, to be imported directly from thence into Great Britain, in British or American ships or vessels, subject to such duties only as are payable on the like commodities when imported from other foreign countries; may it therefore please your majesty that it may be enacted; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the

same, that from and after the end of the present session of parliament, it shall and may be lawful for any person or persons, to import into Great Britain directly from any of the territories of the United States of America, in British built ships or vessels, owned, navigated and registered according to law, or in ships or vessels built in the countries belonging to the United States of America, or any of them, or in ships or vessels taken by any of the ships or vessels of war, belonging to the government or any of the inhabitants of the said United States, having commissions or letters of marque and reprisal from the government of the said United States, and condemned as lawful prize in any court of admiralty of the said United States, of which condemnation proof shall be given to the commissioners of his majesty's customs, or any four or more of them, in England or Scotland respectively, and owned by the subjects of the said United States or any of them, and whereof the master and three fourths of the mariners at least are subjects of the said United States, any goods, wares, or merchandise, the growth, production, and manufacture of the said United States, which are not prohibited by law to be imported from foreign countries, and to enter and land such goods, wares, and merchandise, upon payment of the duties, and subject to the conditions and regulations herein after mentioned: any law, custom, or usage, to the contrary in any wise notwithstanding.

II. And be it further enacted, That all such goods, wares, and merchandise imported into Great Britain, either in such ships or vessels, or in British built ships or vessels, owned, navigated and registered, according to law, shall and may be entered and landed upon payment of such duties of customs and excise, and no higher, except as herein after is provided, as are payable on goods, wares and merchandise of the like denomination or description upon their importation into Great Britain from any other foreign country; and in cases where different duties are imposed upon goods, wares, and merchandise of the like denomination or description, imported from different

foreign countries, then upon payment of the lowest duties which by law are now required to be paid on the importation of any such goods, wares, or merchandise from any other foreign country: provided always, that where any goods, wares, or merchandise are imported from the said United States, in any ship or vessel not being British built, owned, navigated, and registered according to law, such goods, wares, and merchandise shall be subject and liable to the duties due and payable on similar articles when so imported from any other foreign country.

III. And be it further enacted, That any tobacco, being the growth or production of any of the territories of the United States of America, may be imported into Great Britain in British or American ships or vessels, owned and navigated as herein before required, upon payment of the same duties of customs and excise as are now paid on tobacco imported by British subjects from any British colony or plantation in America; and that any snuff, being the production and manufacture of any of the said territories, may be imported into Great Britain in manner before mentioned, upon payment of such duties of customs and excise, as snuff, being the production or manufacture of Europe imported from Europe, is subject to, and may be warehoused and again exported, such tobacco and snuff to be subject respectively, nevertheless, to all and singular the regulations, restrictions, penalties, and forfeitures relating to the importation and exportation thereof, or in any other respect relating thereto, of an act made and passed in the twenty-ninth year of the reign of his present majesty, entitled, "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" and of another act, passed in the thirtieth year of his present majesty's reign, entitled, "An act to explain and amend an act, made in the last session of parliament, entitled 'An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;' or of any other act since made relating thereto: provided always, that such tobacco shall be accompanied by a manifest as by law required.

IV. And be it further enacted, That all goods, wares, and merchandise, so imported from the United States of America, shall, upon the exportation thereof from Great Britain, be entitled to the same drawbacks as are by law allowed upon the exportation of goods, wares, and merchandise, of the like denomination and description when exported from Great Britain; and that there shall be allowed and paid the same drawbacks and bounties on goods, wares and merchandise, exported from Great Britain to the territories of the said United States, or any of them, as are allowed by law upon the exportation of goods, wares, or merchandise, of the like denomination or description, to any of the islands, plantations, or colonies, belonging to the crown of Great Britain, in America: Provided always, that nothing in this act contained shall extend, or be construed to extend, to repeal or in any wise to alter the duties of package, scavage, balliage or portage, or any other duties payable to the mayor and commonalty and citizens of the city of London, or to the lord mayor of the said city for the time being, or to any other city or town corporate within the kingdom of Great Britain, or to repeal or in any wise to alter any special privilege or exemption to which any person or persons, bodies politick or corporate, is or are now entitled by law, but the same shall be continued as heretofore.

V. And be it further enacted, That the duties of customs and excise upon, for and in respect of any goods, wares or merchandise, imported into Great Britain from the said United States, by virtue and under the authority of this act, shall and may be respectively managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated and applied, in such and the like manner, and in or by any or either of the means, ways or methods, by which the duties of customs and excise and drawbacks of duties of customs and excise upon goods, wares or merchandise, of the same sorts or kinds respectively, imported from, or exported to any other foreign country, were or might be managed, ascertained, raised;

levied, collected, answered, paid, recovered, allowed, appropriated and applied, and the goods, wares or merchandise, so by this act respectively made liable to the payment of, or chargeable with duties of customs and excise, or as entitled to drawback of duties of customs and excise upon the importation thereof into, or exportation thereof from Great Britain, or any other account whatever, shall be, and the same are hereby made subject and liable to all and every the conditions, regulations, rules, restrictions and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, restrictions, regulations, and forfeitures respectively, to which the like goods, wares, or merchandise respectively, were subject and liable by any act or acts of parliament in force on and immediately before the passing of this act, respecting the revenues of customs and excise; and all and every pain, penalty, fine or forfeiture, of any nature or kind whatever, for any offence whatever committed against or in breach of any act or acts of parliament in force on and immediately before the passing of this act, made for securing the revenue of customs and excise, or for the regulation or improvement thereof, and the several clauses, powers, and directions therein contained, shall and are hereby directed and declared to extend to, and shall be respectively applied, practised, and put in execution for and in respect of the several duties of customs and excise, and drawbacks of duties of customs and excise hereby charged and allowed, in as full and ample manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisions, powers, directions, fines, pains, penalties or forfeitures were particularly repeated and re-enacted in the body of this act.

VI. Provided always, and be it further enacted, That it shall and may be lawful for his majesty by and with the advice of his privy council by any order in council or by any proclamation made for that purpose, to cause the provisions of this act to be suspended for such time as his majesty, his heirs and successors, may deem expedient and

necessary; any thing in this act to the contrary notwithstanding.

VII. And be it further enacted, That this act shall continue in force to the end of the next session of parliament.

By the honourable sir Alexander Cochrane, K. B. rear admiral of the red, and commander in chief of his majesty's ships and vessels employed and to be employed at Barbadoes, the Leeward Islands, &c. &c.

WHEREAS an intimation has been received from the right honourable lord viscount Castlereagh, one of his majesty's principal secretaries of state, that the strictest naval blockade is to be established over the Leeward French Carribean islands. The several captains, commanders and commanding officers under my orders, are hereby authorized and directed, to stop all neutral vessels destined for any of the ports of the said islands; and if they shall appear to be ignorant of the existence of the blockade, and have no enemy's property on board, the masters of such neutral vessels shall be apprized thereof, and warned not to proceed to such ports, and a notice written to that effect upon one or more of the principal ship papers.

But if a neutral vessel shall appear to have been so warned, or to be otherwise informed of the existence of the blockade, or to have sailed from her last clearing port after it may be reasonably supposed that this notification might have been made publick there, and yet be found attempting, or intending to enter either of the ports of the said islands, such vessel shall be seized and sent into port for legal adjudication. And with respect to neutral vessels coming out of said ports having any colonial produce, goods or merchandise on board, appearing to have been laden after knowledge of the blockade, such vessel shall, in like manner, be seized and sent in for legal adjudication.

Given on board the Belleisle, Carlisle bay, Barbadoes, October 14, 1808.

(Signed) ALEXANDER COCHRANE.

By command of the rear admiral,

(Signed) JOHN S. TRACY.

FRENCH DECREES, &c.

[TRANSLATION.]

Copy of the Decree of the National Convention of the 9th May, 1793, 2d year of the Republic of France.

THE national convention, after having heard the report of their marine committee, considering that the flag of neutral powers is not respected by the enemies of France; that two cargoes of flour arrived at Falmouth in Anglo-American vessels, and purchased before the war for the service of the marine of France, have been detained in England by the government, who would not pay for them, except at a price below that at which flour had been sold:

That a vessel from Papembourg, called the *Therisia*, commanded by captain Hendrick Kob, laden with divers effects belonging to Frenchmen, has been conducted to Dover, the 2d of March last, by an English cutter:

That a privateer of the same nation has carried into the same port of Dover, the 18th of the same month, the Danish ship *Mercury*, Christianlund, captain Freuchen, expedited from Dunkirk on the 17th with a cargo of wheat for Bordeaux:

That the ship *John*, captain Shiklely, laden with near six thousand quintals of American wheat, bound from Falmouth to St. Mala, has been taken by an English frigate, and conducted to Guernsey, where the agents of the government have simply promised to pay the value of the cargo, because it was not on account of the French:

That one hundred and one French passengers of different professions, embarked at Cadiz by order of the Spanish minister, in a Genoese ship called the *Providence*, captain Ambrose Briasco, bound to Bayonne, have been shamefully pillaged by the crew of an English privateer:

That the divers reports, which are successively made by the maritime cities of the republick, announce that these same acts of inhumanity and injustice are daily multiplied and repeated with impunity throughout the seas:

That, under such circumstances, all the rights of nations being violated, the French people are no longer permitted to fulfil, towards the neutral powers in general, the vows they have so often manifested, and which they will constantly make, for the full and entire liberty of commerce and navigation—decree as follows :

ART. I. The French ships of war and privateers may arrest, and bring into the ports of the republick, the neutral vessels which shall be laden, wholly or in part, either with articles of provision belonging to neutral nations, and destined for an enemy's port, or with merchandises belonging to an enemy.

II. The merchandises belonging to an enemy shall be declared good prize, and confiscated to the profit of the captors : the articles of provisions belonging to neutral nations, and laden for an enemy's port, shall be paid for according to their value in the place to which they were destined.

III. In all cases the neutral vessels shall be released as soon as the unloading of the articles of provision arrested, or of the merchandise seized, shall have been effected. The freight thereof shall be paid at the rate which shall have been stipulated by the persons who shipped them. A just indemnification shall be allowed, in proportion to their detention, by the tribunals who are to have cognizance of the validity of the prizes.

IV. These tribunals shall be bound to transmit, three days after their decision, a copy of the inventory of the said articles of provision or merchandise, to the minister of marine, and another to the minister for foreign affairs.

V. The present law, applicable to all the prizes which have been made since the declaration of war, shall cease to have effect, as soon as the enemy powers shall have declared free and not seizable, although destined for the ports of the republick, the articles of provision belonging to neutral nations, and the merchandises laden in neutral vessels, and belonging to the government or citizens of France.

[TRANSLATION.]

Decree of the national convention of the 23d May, which declares that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May.

THE national convention, after having heard the report of their committee of publick safety, wishing to maintain the union established between the French republick and the United States of America, decree, that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May, conformably to the 16th article of the treaty concluded on the 16th of February, 1778.

True copy.

LE BRUN.

NOTE. It appears that on the 28th May, the convention passed a decree which so far repealed that of the 23d May, as to place in a state of provisional sequestration the property seized under the decree of the 9th May.

No copy of the decree of the 28th May is to be found in the department of state.

[TRANSLATION.]

Copy of the decree of the national convention of the 1st July, 1793, 2d year of the French republick, which exempts from the dispositions of the decree of the 9th May, 1793, the vessels of the United States.

THE convention, after having heard the report of the committee of publick safety, wishing to maintain the union established between the French republick and the United States of America, decrees, that the vessels of the United States are not comprised in the dispositions of the decree of the 9th May, conformably to the 16th article of the treaty concluded the 6th of February, 1778.

Certified conformable to the original.

DEFORGUE.

NOTE. It appears that on the 27th July, the convention again put in force the decree of the 9th May; but no copy of the act by which this was done is to be found in the department of state.

Extract of the register of arrears' of the committees of publick safety, finance, and supplies.

25th Brumaire, 3d year of the republick, Nov. 18, 1794.

THE committee of publick safety, commerce, and supplies, order as follows :

ART. I. The vessels of the United States of America, and those of other neutral powers, shall be permitted to enter freely into the ports of the republick, and retire from them when they please: Nor shall it be permitted to any constituted authority to retard their departure, or to oblige the captains to sell their cargoes against their will.

II. When the captains or owners of neutral vessels are disposed to sell their cargoes to the publick, they shall be paid for them according to the bargain which they make.

III. It is enjoined to all the commandants of naval armaments, fleets, divisions, and squadrons of the republick, to respect, and to cause to be respected, upon their responsibility, in favour of the neutral and allied powers, the rights of nations and the stipulations of treaties, conforming themselves strictly to the terms of the decree of the convention of the 27th of July, 1793.

IV. In consequence, they are expressly prohibited from turning these vessels from their course, taking from on board of them their captains, sailors, or passengers, other than soldiers or sailors actually in the service of an enemy power; or of seizing the effects or merchandise which shall be found in them.

V. Are excepted from the prohibition contained in the preceding article—

1st. Merchandises belonging to the enemies of the republick, until such enemy powers shall have declared that

the merchandises of the French shall be free on board neutral vessels.

2d. Such merchandises of the neutral powers also as are deemed contraband of war, and under which are comprised all arms, instruments and munitions of war, and every kind of merchandise and other effects destined for an enemy's port actually siezed or blockaded.

[VI. VII. VIII. and IX. regulate the manner of proceeding where neutral vessels are brought in, upon a presumption of having enemy's goods on board.]

X. The commission of marine shall present without delay a statement of the individuals, born subjects of the powers with whom the republick is at war, who were taken before the present day upon neutral vessels, that particular arretés may be taken in each case.

XI. The indemnities which are due to the captains of neutral powers who were detained by an embargo at Bordeaux, shall be liquidated without delay by the commission of marine and colonies, conformable to an arreté of the committee of publick safety of the 17th of Germinal; and this commission shall render an account in the course of ten days, of the actual state of these demands.

XII. The commission of marine is specially charged to receive and adjust the accounts which shall be presented to it by an agent of the United States, for such supplies as the Americans have furnished to the administration of St. Domingo; and it shall take the necessary measures to procure to the parties interested the most prompt justice, and shall also present to the committees of publick safety, of finance, commerce and supplies, the result of its operations in these respects.

XIII. The commission of foreign relations is instructed to deliver a copy of this arreté to the minister plenipotentiary of the United States of America, in answer to his memorial of the 9th of Fructidor (September 3d) last.

(Signed)

MERLIN, THURIOT,
CAMBACERES, &c.

Extract of the register of arrears of the committee of publick safety, of the 14th Nivose, third year of the republick, [January 3, 1795.]

THE committee of publick safety, considering that, by the twenty third article of the treaty of commerce between France and the United States of America, bearing date on the 6th of February, 1778, it is agreed :

1st. That the people of France and America may navigate reciprocally, in complete safety, with their vessels, and without exception as to the owners of the merchandise charged upon such vessels, or as to the ports from whence they come, and although the power for which they be destined be actually at war, or become afterwards the enemy of the one or the other contracting party: that they may equally navigate, in full safety, with their vessels and merchandise, and frequent the places, ports, and harbours of the enemies of both nations, or of either, and carry on trade, not only from the port of an enemy to that of a neutral power, but also from different ports of the same enemy: 2d. That free vessels shall make free goods, and that any thing shall be considered as free, which shall be found on board the vessels of either contracting nation, although it belong, in whole or in part, to the enemies of either the one or the other, contraband always excepted: 3d. That the same liberty shall be extended to those who are found on board free vessels, although they be the enemies of either the one or the other contracting nation; and, in consequence, that such persons shall not be taken from such vessels, unless they be soldiers in the actual service of the enemy:

Considering that the crimes of England having given to the war of despotism against liberty a character of injustice and atrocity, without example in the annals of mankind, the national convention found itself obliged, in using the right of reprisal, to decree, on the 9th of May, 1793, that the vessels of war and corsairs of the republick might take, and conduct into the ports of France, such vessels of

the neutral powers as they should find charged, in whole or in part, with provisions belonging either to such powers, or the enemies of France. Soon afterwards, however, and on the 1st of July, 1793, the convention restored in full vigour the dispositions of the treaty above mentioned, of the 6th of February, 1778, but which were again revoked by a decree of the 27th of the same month, in respect to provisions and merchandises belonging to an enemy; upon which latter ground it has stood since, leaving the provisions and merchandises of neutral powers in such vessels free: in regard to which the French government has not to reproach itself with having waited to show itself just and loyal, that the cabinet of London might revoke, as it did a long time afterwards, the order, given by it the preceding year, to seize all neutral vessels carrying provisions or merchandises into France:

Considering that since, and notwithstanding the notoriety with which this cabinet continues to insult and violate the rights of neutral nations, by causing their vessels charged with merchandise, destined for the ports of France, to be seized; yet the national convention has enjoined it, by the 7th article of the law of the 13th of this month, upon all officers, civil and military, strictly to observe, in all their dispositions, the treaties which unite France with the neutral powers of the ancient continent, as likewise with the United States of America, declaring all articles of a contrary import in any other law to be absolutely null and void.

Fully therefore to carry into effect the said law, according to its true intent and meaning, it is hereby ordered—

ART. I. The commission of marine and of the colonies, shall notify without delay, to all the commanders of armed vessels, divisions and squadrons, the article above mentioned of the law of the 13th of this month; and in consequence that they are to consider the 5th article of the arrêté of the 25th Brumaire last, which authorized the seizure of merchandises belonging to an enemy, on board neutral vessels,

until such enemy shall have declared French property on board such vessels free, as now null and void.

II. The merchandises called contraband, though belonging to a neutral power, shall continue subject to seizure.

III. All arms, instruments and munitions of war of every kind, horses and their equipage, and all kind of merchandises and other effects destined for an enemy's port actually blockaded or besieged, shall be deemed contraband of war.

(Signed)

CAMBACERES,
CARNOT,
PRIEUR,
A. DUMONT,

CHAZAL,
MAREC,
PELET.

Decree of the executive directory, on the conduct of the flag of the French republick towards neutral vessels.

14 MESSIDOR, YEAR 4. (JULY 2, 1796.)

THE executive directory, considering that if it belongs to French loyalty to respect the treaties or conventions which assure to neutral or friendly powers the commercial advantages of which the result ought to be common to the contracting powers, these same advantages, if they are turned to the benefit of our enemies, either through the feebleness of our allies or of neutrals, through fear from views of interest, or from any other motive, would provoke indeed the inexecution of the articles by which they should be stipulated, decrees what follows:

It shall be notified without delay to all the neutral or allied powers, that the flag of the French republick shall be used against neutral vessels, be it for the purpose of confiscation, search or detention (*visite ou prehension*) in the same manner that they suffer the English to use theirs in regard thereto.

The minister of foreign relations is charged with the execution of the present decree which shall not be printed.

Decree of the executive directory concerning the navigation of neutral vessels loaded with merchandise belonging to the enemies of the republick, and the judgment on the trials relative to the validity of maritime prizes.

12 VENTOSE, YEAR 5. (MARCH 2, 1797.)

THE executive directory having examined the law of the 9th May, 1793, which, for as much as the flag of neutral powers not being respected by the enemies of the French republick, and all the laws of nations being violated to her prejudice, it is no longer permitted to the French people to fulfil, towards these powers in general, the wish which it has so often manifested, and which it will constantly form for the full and entire liberty of commerce and of navigation,—orders, among other things :

1st. That the French vessels of war and privateers may stop and carry into the ports of the republick, neutral vessels which may be found loaded entirely, or in part, with merchandise belonging to the enemy.

2d. That the merchandise belonging to the enemy shall be declared good prize, and confiscated for the benefit of the captors.

3d. That in all cases the neutral vessel shall be released the moment the unloading of the merchandise seized shall have been effected ; that the freight shall be paid at the rates which shall have been stipulated by the freighters, and a just indemnity shall be allowed for their detention by the tribunals, whose duty it may be to take cognizance of the validity of the prizes.

4th. That these tribunals shall moreover be bound to transmit, three days after their judgment, a copy of the inventory of the merchandise to the minister of the marine, and another copy to the minister of foreign affairs.

5th. That the present law, applicable to all prizes which have been made since the declaration of war, shall cease to have its effect when the enemy powers shall have declared free and not seizable, though destined for the ports of the republick, the merchandise loaded on board

neutral vessels which shall belong to the French government or its citizens.

Having likewise examined the law of the 27th July, 1793, which, in maintaining that of the 9th May preceding, here above recited, orders that it should have its full and entire execution, and that in consequence all other regulations which may be contrary to it are and remain repealed, a repeal which evidently comprehends the law of the first of the same month of July, by which the vessels of the United States of America had been excepted from the law of the 9th May, in conformity to the 5th article of the treaty of the 6th February, 1778.

Having also examined the 7th article of the law of the 13th Nivose, 3d year, [3d January, 1795,] which enjoins on all the agents of the republick, on all the commandants of the armed force, on the officers civil and military, to cause to be respected and observed in all their arrangements, the treaties which unite France to the neutral powers of the ancient continent and to the United States of America, and adds that no blow shall be aimed at those treaties, and that all regulations which may be contrary to them are annulled: considering that this last law does not derogate from that of the 9th May, 1793, save only, in favour of those neutral powers whose treaties actually subsisting with the French republick, are contrary to its regulations, that consequently it is important for the information as well of the commandants as the armed force of the republick, and of the vessels commissioned by it, as of the tribunals charged with deciding on the validity of the prizes, to take measures for preventing either that it should be supposed that treaties existed, which never were made, or that treaties concluded for a limited time which is expired, should be considered as still being in force, or that those which have been modified since their formation should be considered as yet requiring a literal execution: that to this last description belongs particularly, the treaty of amity and commerce, concluded the 6th of February, 1778, between France and the United States of America:

that in effect by the second article of this treaty, France and the United States of America, mutually engage not to grant any particular favour to other nations in relation to commerce or navigation, which does not become forthwith common to the other party, and that it is added by the same article, that this other party shall enjoy the favour gratuitously, if the grant is gratuitous, or on making the same compensation if the grant is conditional; that thus the provision stipulated in favour of England, by the treaty of amity, commerce and navigation, concluded at London the 19th November, 1794, between that power and the United States of America, are considered to have been in behalf of the French republick itself, and in consequence modifying, on the points where they differed, the treaty concluded 6th February, 1778; that it is agreeable to these provisions that the French government has declared by its decrees of the 14th and 28th Messidor, 4th year, 2d and 16th July, 1796, as it is likewise forced to do at present, that it will use the just measures of reciprocation, which it had a right to exercise in that respect in every thing which has a relation to the circumstances of the war, as also to the political, commercial, and maritime interests of the French republick; that consequently it is necessary to settle, by reconciling the treaties of the 6th February, 1778, and the 19th November, 1794, every doubt as to the case where this right of reciprocation ought to be exercised.

Considering that there have been quite lately raised, as to the manner of stating the proofs of property in the ships and merchandise pretended to belong to neutrals, doubts and controversies which never would have taken place, if the provisions of the ancient regulations relative to this business had been better known, that it consequently is of importance to recite these provisions, and to cause to be executed the 5th article of the law of the 14th February, 1793, which has maintained them.

After having heard the minister of justice, of the marine and of the colonies, decrees what follows :

ART. I. The commissioners of the executive directory near the civil tribunals of the departments, shall take care that on the trials: as to the validity of maritime prizes, no judgment shall be founded on the 7th article of the law of the 13th Nivose, 3d year, [2d January, 1795,] unless the minister of justice be previously consulted in conformity to the 8d article of the law of the 8th Florial, 4th year, [27th April, 1796,] relative to the treaties, in virtue of which some neutrals might pretend to withdraw themselves by means of the first of these laws from the execution of that of the 9th May, 1793.

II. The minister of justice would consequently examine if the treaties appealed to still remain in force, or whether they have been modified since their adoption: he shall be furnished for this purpose by the minister of exterior relations with all the information (*renseignements*) of which he shall be in want, and he shall refer the same to the executive directory, as is prescribed by the law of the 8th Florial, 4th year, [27th April, 1796.]

III. The executive directory reminds all French citizens, that the treaty entered into on the 6th of February, 1778, between France and the United States of America, has been, from the terms of its second article, in strict right (*de plein droit*) modified by that which was entered into in London on the 19th of November, 1794, between the United States of America and England. In consequence, agreeably to the 17th article of the treaty of London, of the 19th of November, 1794, all merchandise belonging to an enemy, or not sufficiently proven to be neutral, loaded under the American flag, shall be confiscated; but the vessel, on board of which it shall have been found, shall be released, and returned to the proprietor. It is enjoined on the commissioners of the executive directory to cause to be accelerated, by all the means in their power, the judgment on the trials which shall take place, either in relation to the validity of the capture of the cargo, or in relation to freights and demurrage.

IV. Agreeably to the 18th article of the treaty of Lon-

* VOL. III. 50.

don, of the 19th of November, 1794, there shall be added the following articles to those declared contraband by the 24th article of the treaty of the 6th of February, 1778, viz. wood for ship building, pitch, tar and resin, copper in sheets, canvass, hemp and cordage, and every thing that serves, directly or indirectly, for the armament and equipment of vessels, except unwrought iron and fir plank. These several articles shall be confiscated, whenever they shall be destined, or when it is attempted to carry them, to the enemy.

V. Agreeably to the 21st article of the treaty of London, of the 19th of November, 1794, every individual known to be American, who holds a commission given by the enemies of France, as also every mariner of that nation, making a part of the crew of private or publick ships (*navires ou vaisseaux*) of the enemy, shall be, from that act alone, declared a pirate, and treated as such; without allowing him, in any case, to show that he had been forced by violence, menaces, or otherwise.

VI. In conformity to the law of the 14th February, 1793, the regulations of the 21st October, 1794, and of the 26th July, 1778, as to the manner of proving the right of property in neutral ships and merchandise, shall be executed according to their form and tenour.

In consequence every American vessel shall be a good prize, which has not on board a list of the crew (*Rôle d'Equipage*) in proper form, such as is prescribed by the model annexed to the treaty of the 6th February, 1778, a compliance with which is ordered by the 25th and 27th articles of the same treaty.

VII. It is enjoined on the commissioners of the executive directory to call the severity of the tribunals to the fraudulent manœuvres of every ship owner calling himself a neutral, American, or other, on board a vessel in which shall be found, as has frequently been done during the present war, either maritime papers (*papiers de mer*) in blank, though signed and sealed; or papers in form of letters containing the signatures of individuals, in blank; or

of double passports or sea letters, which indicate different destinations to the vessel; or double invoices, bills of lading, or any other ship papers which assign to the whole, or to a part of the same merchandise, different proprietors or different destinations.

VIII. From the regulations of the present décret, that of the 9th Frimaire last (29th November, 1795) concerning the freights and demurrage, is referred to what relates to the demurrage only.

The present decree shall be inserted in the bulletin of the laws. The ministers of the marine and of the colonies, of justice, and of foreign relations, are charged with its execution, each one in what concerns him.

Law which determines the character of vessels from their cargo, especially those loaded with English merchandise.

29 NIVOSE, YEAR 6, (JAN. 18, 1798.)

AFTER having heard the report of a special commission on the message of the executive directory of the 15th Nivose, relative to English merchandise:

Considering that the interest of the republick requires the most prompt measures against all vessels which shall be loaded with it:

ART. I. The character of vessels, in what concerns their quality, as neutral or enemy, shall be decided by their cargo: in consequence, every vessel found at sea, laden in whole or in part with merchandise coming (provenants) from England or her possessions, shall be declared good prize, whoever may be the proprietor of these productions or merchandise.

II. Every foreign vessel, which shall during her voyage have entered a port of England, shall not be admitted into a port of the French republick, save only when there is a necessity for her entering (de relache) in which case she shall be bound to leave the said port so soon as the cause of her entering it (de sa relache) shall have ceased.

Decree of the executive directory in explanation of that of the 12th Ventose, 5th year, 2d March, 1797, concerning the navigation of neutral vessels, of the 26th Ventose, 7th year, 18th March, 1799.

THE executive directory, having examined its decree of the 12th Ventose, 5th year, (2d March, 1797) concerning the navigation of neutral vessels loaded with merchandise belonging to the enemies of the republick, and the judgment on the trials as to the validity of maritime prizes; considering that the 4th article of that decree, in what relates to the rôles d'équipages with which neutral vessels ought to be furnished, has had improper interpretations so far as concerns the rôles d'équipages of American vessels, and that it is time to do away the obstacles resulting therefrom, to the navigation of the vessels of that nation.

After having heard the minister of exterior relations, and the minister of justice, declare that by the fourth article of the said decree, it was not understood that the navigation of American vessels, relatively to the form of their rôles d'équipages, was subjected to other conditions, than those imposed on all neutrals by the 12th article of the ordinance of 1794, and by the 9th article of that of the 26th July, 1778.

The ministers of the marine and of justice, each in what concerns him, are charged with the execution of the present decree, which shall be inserted in the bulletin of laws.

Decree of the executive directory as to those who compose the crews of the vessels of the enemies of France.

[8 Brumaire, 7th year, 29th Oct. 1799.]

THE executive directory, on the report of the minister of exterior relations, considering that the squadrons, privateers, and vessels of England and Russia, are in part manned by foreigners; considering that this violation is a manifest abuse of the laws of nations, and that the powers

of Europe have not taken any measures to stop it,—decree :

ART. I. Every person, native (original) of friendly countries, allied to the French republick, or neutral, holding a commission given by the enemies of France, or making part of the crews of the vessels of war, or other enemy vessels, shall, for that act alone, be declared a pirate, and treated as such, without being allowed in any case to allege that he was forced by violence, menaces, or otherwise.

II. The executive directory of the Batavian, Ligurian, Cisalpine, and Roman republicks, shall be informed of this measure.

III. The provisions contained in the first article shall be notified to the powers neutral or allied to the French republick.

Decree of the executive directory on the mode of executing its decree of the 8th Brumaire, 7th year, (29th October, 1799,) concerning those who compose the crew of enemy vessels.

24 BRUMAIRE, YEAR 7. (NOV. 14, 1799.)

ART. I. In execution of the 3d art. of the decree of the executive directory of the 8th of this month, the allied or neutral powers shall be invited to take the necessary measures for recalling within a time, which shall be fixed, those mariners of their respective nations actually embarked on board the vessels of war, or other vessels, belonging to England.

II. The ambassadors, ministers, and envoys of the republick, near the respective powers, shall receive particular instructions on this subject.

III. The period of the execution of the decree of the 8th Brumaire, shall be determined by a subsequent decree.

IV. The minister of exterior relations shall be charged to make arrangements with the minister of marine and the colonies for the execution of the present decree.

Law which repeals the 1st article of that of 29th Nivose, 6th year, Jan. 18, 1798, relative to maritime cruising.

ART. I. The first article of the law of the 29th Nivose, 6th year, 18th January, 1798, relative to maritime cruising, is repealed.

The consuls of the republick order, that the above law shall be published and executed, and that the seal of the republick shall be affixed to it. Done at the national palace of the consuls of the republick, the 23d Frimaire, 8th year, 13th December, 1800, of the republick.

(Signed)

ROGER DUCOS,
BONAPARTE, SIEYES.

Decree of the consuls of the republick which puts in force the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, 29th Frimaire, 8th year, 19th December, 1800.

THE consuls having examined the law of the 23d Frimaire, 8th year, December 13, 1800, which repeals the 1st article of the law of the 25 Nivose, 6th year, January 14, 1798, relative to maritime cruising, considering that the repeal of that law necessarily renews that state of the law antecedently existing.

That this as fixed by the ordinance of the 26th July, 1778, is considered the most proper to conciliate the interests of the republick with the rights of neutral powers; wishing to prevent on the part of French or neutral owners (armateur) errors or interpretations which shall counteract the views under which the law of the 29 Nivose, 6th year, 18th January 1798, has been repealed....decree what follows.

ART. I. The regulations prescribed by the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, shall be strictly observed by all those to whom they shall be applicable; but in case of a contravention on their part, they are to suffer the confiscations and condemnations in damages fixed on by the said ordinance and the laws.

II. The ministers of justice, of the marine, of exterior relations and of the finances are charged, each one in what concerns him, with the execution of the present decree, which shall be inserted in the bulletin of the laws.

The consuls of the republick,

(Signed)

**BONAPARTE, SIEYES,
ROGER DUCOS.**

IMPERIAL CAMP, BERLIN, NOV. 21, 1806.

NAPOLÉON, emperor of the French, and king of Italy, considering:

1. That England does not admit the right of nations, as universally acknowledged by all civilized people:

2. That she declares as an enemy every individual belonging to an enemy state, and, in consequence, makes prisoners of war, not only of the crews of *armed* vessels, but also of *merchant* vessels, and even the supercargoes of the same:

3. That she extends or applies to merchant vessels, to articles of commerce, and to the property of individuals, the right of conquest, which can only be applied or extended to what belongs to an enemy state:

4. That she extends to ports not fortified, to harbours, and mouths of rivers, *the right of blockade*, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports:

5. That she declares blockaded places before which she has not a single vessel of war, although a place ought not to be considered blockaded, but when it is so invested as that no approach to it can be made, without imminent hazard; that she declares even places blockaded, which her united forces would be incapable of doing, such as entire coasts and a whole empire:

6. That this unequalled abuse of right of blockade has no other object than to interrupt the communications of different nations, and to extend the commerce and industry of England upon the ruin of those of the continent:

7. That this being the evident design of England, who-

ever deals on the continent in English merchandise favours that design, and becomes an accomplice :

8. That this conduct in England (worthy only of the first ages of barbarism) has benefited her to the detriment of other nations :

9. That it being right to oppose to an enemy the same arms she makes use of, to combat as she does, when all ideas of justice, and every liberal sentiment (the result of civilization among men) are disregarded :

We have resolved to enforce against England the usages which she has consecrated in her maritime code.

The present decree shall be considered as the fundamental law of the empire, until England has acknowledged that *the rights of war* are the same on land as at sea ; that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places, actually invested by competent forces.

Imperial Decree of the 21st of November, 1806.

[See preceding vol. p. 181.]

PARIS, DECEMBER 26.

IMPERIAL DECREE.

Rejoinder to his Britannic majesty's order in council, of 11th November, 1807. At our royal palace at Milan, December 17, 1807.

[See present vol. p. 207.]

Extract of a Letter from Gen. Armstrong to the Secretary of State, dated Paris, April 23, 1808.

“ ORDERS were given on the 17th instant, and received yesterday at the imperial custom-house here, “ to seize all American vessels now in the ports of France, or which may come into them hereafter.”

“ Postscript.—April 25th, 1808. I have this moment received the following explanation of the above mentioned

order, viz. That it directs the seizure of vessels coming into ports of France after its own date, because no vessel of the United States can now navigate the seas, without infracting a law of the said states, and thus furnishing a presumption that they do so on British account, or in British connection."

Note....The above extracts contain the only authentick information, received at the department of state, relative to the Bayonne decree.

FRENCH WEST INDIA DECREES.

[TRANSLATION.]

EQUALITY. LIBERTY.

Extract from the registers of the special agency of the executive directory, to the Windward Islands.

THE special agents of the executive directory, to the Windward Islands.

Considering that the laws as well ancient as modern, forbid neutrals to carry to the enemy contraband or prohibited merchandises :

Considering that notwithstanding the complaints of the minister plenipotentiary of the French republick, near the United States of North America, of which he has informed us by his letter of the 2d July, 1796, those states, and especially Virginia, have fitted out vessels loaded with horses for the English :

Decree, that from this day forward, all vessels loaded with merchandises designated by the name of contraband, as arms, instruments, munitions of war, of what kind soever, horses and their furniture, shall be stopped by the ships of war and privateers ; to be seized and confiscated for the benefit of the captors.

At Basseterre, Guadaloupe, August 1, 1796.

Signed on the register,

VICTOR HUGUES,
LEBAS.

Compared with the register.

VAUCHELET,
Secretary of the Agency.

(TRANSLATION.)

EQUALITY. LIBERTY.

DECREE.

The special agents of the executive directory, to the Windward Islands.—

CONSIDERING that the ports of the Windward and Leeward islands, as well as those of Demarara, Essequibo, and Berbice, delivered up to the English, occupied and defended by emigrants, are in a state of regular siege, and not entitled to the same advantages as the ports of the different English colonies, possessed by that power before the war, or to other rights;

Considering that it is against every principle to treat a horde of insurgents, destitute of country, without government, and without a flag, with the same respect as civilized nations preserve towards each other during a war;

Considering that, by the authentick acts which are in our possession, it is proved that the divers places of the colonies delivered up to the English by the rebel Frenchmen and Batavians, no more belong to the British government than la Vendée, in which the English ministry had in like manner mercenary troops under pay—some regiments clad in the same uniform as those of England;

Considering that in virtue of the 2d article of the treaty of alliance concluded at Paris on the 6th of February, 1778, between the United States and France, the former power engaged to defend the American possessions in case of war, and that the government and the commerce of the United States have strangely abused the forbearance of the republick of France in turning to its injury the favours granted to them of trading in all the ports of the French colonies;

That by permitting neutral vessels any longer to carry provisions of war and of subsistence to men evidently in a state of rebellion, would be to prolong civil war, and

the calamities and crimes flowing therefrom—Decree as follows :

ARTICLE 1. The ships of the republick and French privateers are authorized to capture and conduct into the ports of the republick, neutral vessels destined for the Windward and Leeward Islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are Martinico, St. Lucia, Tobago, Demarara, Berbice, Essequibo ;—and at the leeward, Port-au-Prince, Saint Mark's, L'archaye and Jérémie.

2. Every armed vessel, having a commission from either of the said ports, shall be reputed a pirate, and the crews adjudged and punished as such.

3. The vessels and cargoes described in the first and second articles are declared good prize, and shall be sold for the benefit of the captors.

4. Every captured vessel, which shall have cleared out under the vague denomination of *West Indies*, is comprehended in the first and second articles.

5. The decree of the 4th of last Nivose, in pursuance of the resolution of the executive directory, of the 14th Messidor, 4th year, shall be executed till further orders, as far as shall not be contravened by the present decree.

This decree shall be printed, transcribed in the register of the criminal and commercial tribunals, sent to all the French colonial ports, read, published, and posted up, wherever it may be necessary.

It shall be notified officially to the neutral governments of St. Croix, St. Thomas, and St. Bartholomews.

Enjoining the criminal and commercial tribunals of Guadaloupe, their delegates in the different French colonies and elsewhere, the rear-admiral commandant on the West India station, and the head of the administration, to aid in executing the present decree, each in his respective department.

Done at Basseterre, island of Guadaloupe, the 13th of Pluviose, 5th year, (1st February, 1797) of the French republick, one and indivisible.

Signed)

VICTOR HUGUES & LEBAS.

[TRANSLATION.]

Extract from the register of the resolves of the commission delegated by the French government to the Leeward Islands.

THE commission resolves, that the captains of French national vessels and privateers are authorized to stop, and bring into the ports of the colony, American vessels bound to English ports, or coming from the said ports.

The vessels which are already taken, or shall be hereafter, shall remain in the ports of the colony, until it shall be otherwise ordered.

At the Cape, 7th Frimaire (27th November, 1797) in the fifth year of the French republick, one and indivisible.

Signed on the records of the process verbal.

LE BLANC, President.

**SANTHONAX, RAIMOND, Commissioners,
PASCAL, Secretary General.**

A true copy.

The Secretary General of the Commission,
PASCAL.

L. Ferrand, general of brigade, commander in chief of St. Domingo, acting as captain general, and a member of the legion of honour.

EXPERIENCE has, for too much time, taught the general, that all kind of regard and modification towards those scoundrels, who maintain the rebellion in Hispaniola, by furnishing every thing necessary to the rebels, against the will and approbation of their respective governments, and who, by those acts of cupidity, dishonour the flags they sail under ; and finding the necessity of putting a stop to rapacity, and to treat them as pirates, has proclaimed and proclaims....

ART. I. All individuals whomsoever, found on board of

any vessel or vessels, allies or neutrals, bound to any ports in Hispaniola occupied by the rebels, shall suffer death.

Those found on board of any vessel, allies or neutrals, coming out of any ports in Hispaniola, occupied by the rebels, shall suffer death.

Those found at two leagues distance, from any part of the coast of Hispaniola, occupied by the rebels, on board of allies or neutrals, shall suffer death.

II. The general informs, that all prisoners made in those different cases, shall be brought into one of the ports of Hispaniola, occupied by the French, to be tried by military commission, which is to pronounce sentence.

III. This proclamation shall be put into execution, on the 1st Floreal, (21st April) and until that time all the preceding proclamations, in order to prevent all kinds of communication with the coast of Hispaniola, occupied by the rebels, shall be strictly executed.

IV. Of this present proclamation registered at the colonial inspection, one hundred copies are printed, published and posted up in all the chief places, round the east part of Hispaniola, and all necessary ships shall be taken to its publicity in all the islands and continent of America.

Done at head quarters of the general of St. Domingo, the 16th Pluviose, year the 13th, 5th February, 1805.

The general commander in chief, acting as captain general, and member of the legion of honour.

(Signed)

L. FERRAND.

SPANISH DECREES, &c.

Copy of a Letter from the secretary of state of his Catholic majesty, to the minister plenipotentiary of the United States at Madrid.

ARANJUEZ, FEB. 15, 1800.

SIR,

THE king wishing to lessen as much as possible the evils resulting to the nation, from the scandalous traffick which many of his subjects carry on with Gibraltar by means of neutral vessels, and making use of just reprisals against

the enemies of his crown, who have declared the ports of Cadiz and St. Lúcar de Barrameda blockaded: his majesty has thought proper to declare, that from this day he should consider Gibraltar as blockaded, and that under this view all captures of neutral vessels going to the said place should be held as legitimate: for which purpose, and that ignorance may not be pleaded, his majesty has commanded me to communicate this declaration for the information and government of your court.

I place myself at your disposition, and pray God to preserve your life many years.

(Signed) **MARINO LUIS DE URQUEJO.**

SPANISH DECREE.

[See preceding vol. p. 191.]

His Majesty has been pleased to issue the following royal decree:

[See preceding vol. p. 273.]



The following documents were not communicated in time to be inserted in the order of date.

Copy of a Letter from Sir John Jervis, to Thomas Griffith, Esq. Barbadoes.

SIR,

THE several French West India islands are to be considered as under blockade, from the arrival of the armament at Barbadoes, the 6th of January: therefore all neutral vessels, trading with these islands within that period, are clearly intended to come within the king's order in council, dated the 6th of November, 1793.

(Signed)

J. JERVIS.

BOYNE, in Fort Royal Bay, Martinico, 18th March, 1794.

INSTRUCTIONS

To the commanders of all ships of war and privateers that have, or may have, letters of marque against France.

AUG. 18, 1794.

GEORGE R.

WHEREAS by an article of our instructions to the commanders of our ships of war and privateers, having letters of marque against France, given at our court at St. James, the 8th day of June, 1793, we thought fit to declare, that it should be lawful to stop and detain all ships laden wholly, or in part, with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as should be most convenient, in order that such corn, meal, or flour, might be purchased on behalf of our government, and the ships be released after such purchase, and after a due allowance for freight, or that the masters of such ships, on giving due security, to be approved by our court of admiralty, should be permitted to dispose of their cargoes of corn, meal, or flour, in the ports of any power in amity with us. We, not judging it expedient to continue for the present the purchase of the said cargoes on behalf of our government, are pleased to revoke the said article, until our farther order therein; and to declare that the same shall no longer remain in force. But we strictly enjoin all our commanders of our ships of war and privateers, to observe the remaining articles of the said instructions; and, likewise, all other instructions which we have issued, and which still continue in force.

[COPY.]

*His Britannic Majesty's ship CAPTAIN,
off Cadiz, April 11, 1797.*

SIR,

IN consequence of the unprovoked declaration of war, by the king of Spain, against his Britannic majesty and the British nation, it is thought right that Spain should no

longer have any trade. I have therefore the honour to acquaint you, that no neutral vessel will be permitted, in future, to enter or leave the port of Cadiz, unless by leave obtained from me, or the commander in chief of the British fleet, and that from this moment Cadiz is to be considered as a blockaded port. I have the honour, &c. &c.

(Signed)

HORATIO NELSON.

To the American and Danish Consuls at Cadiz.

[The following report refers to the President's message of November 8, 1808, page 221, and ought to have been published at page 315, where the documents accompanying that message are completed.]

REPORT

ON SO MUCH OF THE PRESIDENT'S MESSAGE AS RESPECTS
OUR FOREIGN RELATIONS. NOV. 22, 1808.

THE committee to whom was referred so much of the message of the President of the United States, of the 8th instant, as respects our relations with foreign powers, report, in part :

After a period of twenty-five years of peace, hardly interrupted by transient hostilities, and of prosperity unparalleled in the history of nations ; the United States are, for the first time since the treaty which terminated the revolutionary war, placed in a situation equally difficult, critical and dangerous.

Those principles recognised by the civilized world under the name of law of nations, which heretofore controlled belligerent powers, regulated the duties of neutrals and protected their rights, are now avowedly disregarded or forgotten by Great Britain and France. Each of those two nations, captures and condemns all American vessels trading with her enemies or her enemies allies ; and every

European power having become a party in the contest, the whole of our commerce with Europe and European colonies, becomes liable to capture by either one or the other. If there be any nominal exception, it is made on a condition of tribute, which only adds insult to the injury.

The only plea urged in justification of those hostilities, is that of retaliation, grounded on a presumed acquiescence of the United States in previous aggressions by the other party. Waving a discussion of the correctness of the principle of retaliation, a principle doubtful in itself, and altogether inadmissible to the extent to which it has been carried, and when operating on the neutral rather than on the enemy; it is altogether untrue that the United States have ever voluntarily acquiesced in the unlawful aggressions of either nation; omitted or delayed any measures calculated to obtain redress, or in any respect deviated from that impartiality to which they were bound by their neutrality. France has alluded to the violations of the national flag, and of the sovereignty of the United States, in the instances of Pierce's murder, of the outrage on the Chesapeake, and of the destruction of the *Impetuous*. The measures taken to obtain redress in those cases are of publick notoriety, and it may be added, that with the exception of the last, those aggressions on the sovereignty of the United States, did not affect their neutrality, and gave no right to France either of complaint or interference. Setting aside irregularities of less importance and equally chargeable to both nations, such as the British order of June, 1803, and the decree of the French general Ferrand; the principal violations by England of the neutral rights of America, prior to the Berlin decree of November, 1806, and which, if acquiesced in, might have given grounds of complaint to France, are the capture of American vessels laden with colonial produce, founded on a renewal of that pretended principle generally called "the rule of 1756," the impressment of American seamen, compelled thereby to become the auxiliaries of England against France, and

proclamation or nominal blockades, particularly that of the coast from the river Elbe to Brest, notified in May, 1806.

It will not be asserted, that the United States ever tamely acquiesced in either of those pretensions. It will not be denied, that with respect to the two first, the most strenuous efforts were incessantly made to procure an alteration of the British system.

It is true, that to the nominal proclamation blockades of England, the United States had opposed only spirited and repeated remonstrances, and that these had not always been successful. But the measures which a neutral nation may be supposed bound to take, against the infractions of its neutrality, must always bear a certain proportion to the extent and nature of the injury received, and to the means of opposition. It cannot certainly be pretended, that a hasty resort to war should in every such instance have become the duty of America. Nor can the irregularities of England, in declaring in a state of blockade a certain extent of coast, part of which was not, and the whole of which could not, even by her powerful navy, be actually invested and blockaded, be plead in justification of that decree, by which France, without an efficient fleet, pretends to announce the blockade of the dominions of a power which has the incontestable command of the sea, and before no port of which she can station a single vessel. The Milan decree of 1807, can still less rest for its defence on the supposed acquiescence of the United States in the British orders of the preceding month, since those orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree. And it is proper here to add, that the French have, particularly by the sequestration of certain vessels in their ports, and by burning our ships on the high seas, gone even beyond the tenour of their own extraordinary edicts.

The allegation of an acquiescence in the Berlin decree of November, 1806, by which alone the British government pretends to justify the orders of council, is equally unfounded. In the note on that subject, addressed on the

31st of December, 1806, by the British government to the American ministers, after having stated that "they could not believe that the enemy would ever seriously attempt to enforce such a system," the following declaration is expressly made, "If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, his majesty might probably be compelled, however reluctantly, to retaliate in his just defence, &c." The two requisites necessary in the opinion of Great Britain to justify retaliation, are stated to be, the execution of the decree, and the acquiescence of neutral nations. Yet, within eight days after, and in the face of that declaration, without waiting for ascertaining either of those facts, the retaliating British order of January 7th, 1807, was issued, which, contrary to the acknowledged law of nations, subjected to capture, vessels of the United States sailing from the ports of one belligerent to a port of another belligerent.

The United States in the mean while, and without delay, had taken the necessary steps to ascertain the manner in which the French government intended to execute their decree.

That decree might be construed merely as a municipal law forbidding the introduction of British merchandise, and the admission of vessels coming from England. Under that aspect, and if confined to that object, the neutral rights of America were not affected by its operation.

A belligerent may, without any infraction of neutral rights, forbid the admission into his ports of any vessel coming from the ports of his enemy. And France had undoubtedly the same right to exclude from her dominions every species of British merchandise, which the United States have exercised in forbidding the importation of certain species. Great Britain might be injured by such regulations: but America had no more right to complain of that part of the decree, than France had to object to the American non-importation act. So far indeed as respects

the United States, they were placed by the municipal part of the decree in the same situation, in relation to France, in which they are placed in their intercourse with Great Britain by the permanent laws of that country. The French decree forbids American vessels to import British merchandise into France. The British navigation act forbids American vessels to import French merchandise into England. But that broad clause of the Berlin decree which declared the British islands in a state of blockade, though not followed by regulations to that effect, still threatened an intended operation on the high seas. This, if carried into effect, would be a flagrant violation of the neutral rights of the United States, and as such they would be bound to oppose it. The minister of the United States at Paris immediately applied for explanation on that subject; and the French minister of marine, on the 24th Dec. 1806, seven days before the date of the above mentioned note of the British government, stated in answer, that the decree made no alteration in the regulations then observed in France with regard to neutral navigation, or to the commercial convention of the United States with France. That the declaration of the British islands being in a state of blockade did not change the existing French laws concerning maritime captures, and that American vessels could not be taken at sea for the mere reason of their being going to, or returning from an English port.

The execution of the decree comported for several months with those explanations: several vessels were arrested for having introduced articles of English growth or manufacture, and among them some which being actually from England, and laden with English colonial produce, had entered with forged papers, as if coming from the United States. But no alteration of the first construction given by the French government took place until the month of September, 1807. The first condemnation on the principle that the decree subjected neutral vessels to capture on the high seas, was that of the *Horizon* on the 10th of October following. Prior to that time there could

have been no acquiescence in a decree infringing the neutral rights of the United States ; because till that time it was explained, and what was more important, executed in such manner as not to infringe those rights ; because until then no such infraction had taken place. The ministers of the United States at London, at the request of the British minister, communicated to him on the 18th October, 1807, the substance of the explanations received, and of the manner in which the decree was executed. For they were at that time ignorant of the change which had taken place.

It was on the 18th of September, 1807, that a new construction of the decree took place ; an instruction having on that day been transmitted to the council of prizes by the minister of justice, by which that court was informed, that French armed vessels were authorized, under that decree, to seize without exception, in neutral vessels, either English property, or merchandise of English growth or manufacture. An immediate explanation having been asked from the French minister of foreign relations, he confirmed, in his answer of the 7th of October, 1807, the determination of his government to adopt that construction. Its first application took place on the 10th of the same month, in the case of the *Horizon*, of which the minister of the United States was not informed until the month of November ; and on the twelfth of that month, he presented a spirited remonstrance against that infraction of the neutral rights of the United States. He had, in the meanwhile, transmitted to America the instruction to the council of prizes of the 18th of September. This was received on the 1st of December ; and a copy of the decision in the case of the *Horizon*, having at the same time reached government, the President, aware of the consequences which would follow that new state of things, communicated immediately to Congress the alteration of the French decree, and recommended the embargo, which was accordingly laid on the 22d of December, 1807 ; at which time it was well understood, in this country, that the British orders of council, of November preceding, had issued, although they were not officially communicated to our government.

On the 11th of that month those orders did actually issue, declaring that all the ports of France, of her allies, and of any other country at war with England, and all other ports of Europe, from which, although not at war with England, the British flag was excluded, should thenceforth be considered as if the same were actually blockaded; that all trade in articles of the produce or manufactures of the said countries should be deemed unlawful; and that every vessel trading from or to the said countries, together with all goods and merchandise on board, and also all articles of the produce or manufacture of the said countries, should be liable to capture and condemnation.

These orders cannot be defended on the ground of their being intended as retaliating on account of the Berlin decree, as construed, and uniformly executed from its date to the 18th September, 1807, its construction and execution having till then infringed no neutral rights. For certainly the monstrous doctrine will not be asserted even by the British government, that neutral nations are bound to resist, not only the acts of belligerent powers which violate their rights, but also those municipal regulations, which, however they may injure the enemy, are lawful and do not affect the legitimate rights of the neutral. The only retaliation to be used in such cases, must be such as will operate on the enemy without infringing the rights of the neutral. If solely intended as a retaliation on the Berlin decree, as executed prior to the month of September, the British orders of council should have been confined to forbidding the introduction into Great Britain of French or enemy's merchandise, and the admission into British ports of neutral vessels coming from a French or other enemy's port. Indeed the ground of retaliation on account of any culpable acquiescence of neutrals in decrees violating their rights, is abandoned by the very tenour of the orders; their operation being extended to those countries from which the British flag was excluded, such as Austria, although such countries were neither at war with Great

Britain, nor had passed any decree in any way affecting or connected with neutral rights.

Nor are the orders justifiable on the pretence of an acquiescence on the part of the United States, in the French decree as construed and executed subsequent to the 18th September, 1807, when it became an evident infraction of their rights, and such as they were bound to oppose. For their minister at Paris, immediately made the necessary remonstrances; and the orders were issued not only without having ascertained whether the United States would acquiesce in the injurious alteration of the French decree, but more than one month before that alteration was known in America. It may even be asserted that the alteration was not known in England when the orders of council were issued; the instruction of the 18th September, 1807, which gave the new and injurious construction, not having been promulgated in France, and its first publication having been made in December, 1807, and by the American government itself.

The British orders of council are, therefore, unjustifiable on the principle of retaliation, even giving to that principle all the latitude which has ever been avowedly contended for. They are in open violation of the solemn declaration made by the British ministers in December, 1806; that retaliation on the part of Great Britain would depend on the execution of an unlawful decree, and on the acquiescence of neutral nations in such infraction of their rights. And they were also issued, notwithstanding the official communication made by the ministers of the United States, that the French decree was construed and executed so as not to infringe their neutral rights, and without any previous notice or intimation denying the correctness of that statement.

The Berlin decree, as expounded and executed subsequent to the 18th September, 1807, and the British orders of council of the 11th November ensuing, are therefore, as they affect the United States, co-temporaneous aggressions of the belligerent powers, equally unprovoked and

equally indefensible on the presumed ground of acquiescence. These, together with the Milan decree of December, 1807, which filled the measure, would on the principle of self-defence have justified immediate hostilities against both nations on the part of the United States. They thought it more eligible in the first instance by withdrawing their vessels from the ocean, to avoid war, at least, for a season, and at the same time, to snatch their immense and defenceless commerce from impending destruction.

Another appeal has in the meantime been made, under the authority vested in the President for that purpose, to the justice and true interest of France and England. The propositions made by the United States, and the arguments urged by their ministers, are before Congress. By these, the very pretext of the illegal edicts was removed; and it is evident that a revocation, by either nation, on the ground on which it was asked, either must have produced, what both pretended to have in view, a restoration of the freedom of commerce and of the acknowledged principles of the law of nations; or in case of refusal by the other belligerent, would have carried into effect, in the most efficient manner, the ostensible object of the edicts, and made the United States a party in the war against him. The effort has been ineffectual. The propositions have been actually rejected by one of the belligerent powers, and remain unanswered by the other. In that state of things, what course ought the United States to pursue? Your committee can perceive no other alternative but abject and degrading submission—war with both nations—or a continuance and enforcement of the present suspension of commerce.

The first cannot require any discussion. But the pressure of the embargo so sensibly felt, and the calamities inseparable from a state of war, naturally create a wish that some middle course might be discovered, which should avoid the evils of both, and not be inconsistent with national honour and independence. That illusion must be dissipated; and it is necessary that the people of the United States should fully understand the situation in which they are placed.

There is no other alternative but war with both nations, or a continuance of the present system. For war with one of the belligerents only would be submission to the edicts and will of the other ; and a repeal in whole or in part of the embargo must necessarily be war or submission.

A general repeal, without arming, would be submission to both nations.

A general repeal and arming of our merchant vessels, would be war with both, and war of the worst kind, suffering the enemies to plunder us without retaliation upon them.

A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other.

The last position is the only one on which there can be any doubt ; and it will be most satisfactorily demonstrated by selecting, amongst the several modifications which might be suggested, that which may on first view appear the least exceptionable ; a proposition to repeal the embargo, so far only as relates to those powers which have not passed or do not execute any decrees injurious to the neutral rights of the United States.

It is said that the adoption of that proposition would restore our commerce with the native powers of Asia and Africa, and with Spain, Portugal, Sweden, and Russia. Let this be taken for granted, although the precise line of conduct now pursued by most of those nations, in relation to the United States, is not correctly ascertained. So far as relates to any advantages which would result from that measure, if confined to its ostensible object, it will be sufficient to observe that the exports of articles of the domestic produce of the United States, during the year ending the 30th September, 1807, amounted to \$48,700,000; and that the portion exported to the countries above enumerated, falls short of \$7,000,000 ; an amount too inconsiderable, when compared with the bulk of our exports, to deserve attention, even if a question affecting the independence of the nation was to be decided by considerations of immediate profit.

But the true effect of the proposition would be to open an indirect trade with Great Britain, which, through St. Bartholomew and Havana, Lisbon, Cadiz or Gottenburg, would receive, at prices reduced by glutted markets, and for want of competition, all the provisions, naval stores, raw materials for her manufactures, and other articles which she may want. Whether she would be satisfied with that favourable state of things, or whether, considering that boon as a pledge of unqualified submission, she would, according to the tenour of her orders, interrupt our scanty commerce with Russia, and occasionally, under some new pretext, capture rather than purchase the cargoes intended for her own use, is equally uncertain and unimportant. Nor can it be doubted that a measure which would supply exclusively one of the belligerents, would be war with the other. Considered merely as a question of profit, it would be much more eligible at once to raise the embargo in relation to Great Britain, as we would then, at least, have the advantages of a direct market with the consumer. But the proposition can only be defended on the ground that France is the only aggressor, and, that having no just reason to complain of England, it is our duty to submit to her orders. On that inadmissible supposition, it would not only be more candid, but also a more dignified, as well as more advantageous course, openly to join England, and to make war against France. The object would be clearly understood, an ally would be obtained, and the meanness of submission might be better palliated.

It appears unnecessary to pursue any further the examination of propositions, which the difficult situation of the United States could alone have suggested, and which will prove more inadmissible, or impracticable, as the subject is more thoroughly investigated. The alternative is painful; it is between a continued suspension of commerce, and war with both England and France. But the choice must ultimately be made between the two; and it is important that we should be prepared for either the one or the other.

The aggressions of England and France collectively,

affecting almost the whole of our commerce, and persisted in, notwithstanding repeated remonstrances, explanations, and propositions the most candid and unexceptionable, are to all intents and purposes, a maritime war waged by both nations against the United States. It cannot be denied, that the ultimate and only effectual mode of resisting that warfare, if persisted in, is war. A permanent suspension of commerce, after repeated and unavailing efforts to obtain peace, would not properly be resistance: it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean. The present unsettled state of the world, the extraordinary situation in which the United States are placed, and the necessity, if war be resorted to, of making it at the same time against both nations, and these the two most powerful of the world, are the principal causes of hesitation. There would be none in resorting to that remedy, however calamitous, if a selection could be made on any principle of justice, or without a sacrifice of national independence.

On a question of such difficulty, involving the most important interests of the union, and which has not, perhaps, until lately, been sufficiently considered, your committee think the house alone competent to pronounce a decisive opinion: and they have, in this report, confined themselves to an exposition of the subject, and to such introductory resolutions, as will be equally applicable to either alternative. The first of these, being merely declaratory of a determination not to submit to foreign aggressions, may perhaps, at a first view, appear superfluous. It is, however, believed by the committee, that a pledge, by the representatives of the nation, that they will not abandon its essential rights, will not, at this critical moment, be unacceptable. The misapprehensions which seem to have existed, and the misrepresentations which have been circulated, respecting the state of our foreign relations, render also such declaration expedient. And it may not be useless that every foreign nation should understand, that its aggressions never will be justified or encouraged by any

description of American citizens. For the question for every citizen now is, whether he will rally round the government of his choice, or enlist under foreign banners? Whether he will be for his country, or against his country?

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING CORRESPONDENCE BETWEEN MR. CANNING AND MR. PINKNEY. JAN. 17, 1809.

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE U. STATES,

I COMMUNICATE to Congress certain letters which passed between the British secretary of state, Mr. Canning, and Mr. Pinkney, our minister plenipotentiary at London. When the documents concerning the relations between the United States and Great Britain were laid before Congress, at the commencement of the session, the answer of Mr. Pinkney to the letter of Mr. Canning had not been received, and a communication of the letter alone would have accorded neither with propriety, nor with the wishes of Mr. Pinkney. When that answer afterwards arrived, it was considered that as what had passed in conversation had been superseded by the written and formal correspondence on the subject, the variance in the statement of what had verbally passed was not of sufficient importance to be made the matter of a distinct and special communication. The letter of Mr. Canning, however, having lately appeared in print, unaccompanied by that of Mr. Pinkney, in reply, and having a tendency to make impressions not warranted by the statements of Mr. Pinkney, it has become proper that the whole should be brought into publick view.

TH : JEFFERSON.

[TRIPPLICATE.]

LONDON, SEPT. 24, 1808.

SIR,

I AM now enabled to transmit to you a copy of Mr. Canning's answer, received only last night, to my note of the 23d of August.

This answer was accompanied by a letter, of which also a copy is enclosed, recapitulating what Mr. Canning supposes to be "the substance of what has passed between us at our several interviews, previous to the presentation of my official letter."

To the accompanying paper, I think it indispensable that I should reply without delay ; supporting, with politeness, but with firmness, the statements, which I have already had the honour to make to you, of the conversations in question, and correcting some errors upon points, which Mr. Canning has thought fit to introduce into his letter, but which I had not supposed it necessary to mention in detail in my despatches.

I shall not detain Mr. Atwater with a view to this reply, but will take care to forward a copy of it by an early conveyance. My official note and the answer to it being perfectly explicit, Mr. Canning's misapprehensions (for such they are) of previous verbal communications can scarcely be very important in a publick view ; but it is, nevertheless, of some consequence that, whatever may be the object of his statement, I should not make myself a party to its inaccuracies, by even a tacit admission of them.

I do not perceive that a formal reply to the more official paper can now be of any advantage ; but I shall probably take occasion to combine with my reply to the one paper some observations upon the other.

I regret extremely that the views which I have been instructed to lay before this government, have not been met by it as I had at first been led to expect. The overture cannot fail, however, to place in a strong light, the just and liberal sentiments by which our government is animated,

and in other respects to be useful and honourable to our country. I have the honour to be, &c.

WM. PINKNEY.

The Hon. JAMES MADISON, &c. &c. &c.

[COPY.]

FOREIGN OFFICE, SEPT. 23, 1808.

SIR,

IN laying before the king your letter of the 23d August, and in communicating to you the enclosed answer, which I have received his majesty's commands to return to it, I confess that I feel some little embarrassment from the repeated references which your letter contains, to what has passed between us in conversation; an embarrassment arising in no degree (as you are perfectly aware) from any feeling of distrust in you personally, but from a recollection of the misrepresentation which took place in America of former conferences between us. You gave me on that occasion the most satisfactory proof that such misrepresentation did not originate with you, by communicating to me that part of your despatch in which the conferences particularly referred to were related, and related correctly; but this very circumstance while it establishes your personal claim to entire confidence, proves, at the same time, that a faithful report of a conference on your part, is not a security against its misrepresentation.

It was for that reason principally that, after hearing with the most respectful attention all that you had to state to me verbally on the subject of the present overture, I felt myself under the necessity of requiring as "indispensable," a written communication upon the subject.

It is for that reason also, that as, in your written communication, you refer me to our late conversations for the "bearings and details" of your proposal, I feel it necessary to recapitulate, as shortly as I can, what I conceive to have passed in those conversations, beyond what I find recorded in your letter.

The principal points in which the suggestions brought

forward by you in personal conference, appear to me to have differed in some degree from the proposal now stated by you in writing—are two—the first, that in conversation the proposal itself was not distinctly stated as an overture authorized by your government—the second, that the beneficial consequences likely to result to this country from the acceptance of that proposal, were “pursued” through more ample “illustrations.”

In the first of our conferences, I understood you to say little more, on the authority of your government, than that you were instructed to remonstrate against the orders in council, of the 7th of January, and of the 11th of November, 1807; but to add, as from yourself, an expression of your own conviction, that if those orders were repealed, the President of the United States would suspend the embargo with respect to Great Britain. Upon the consequences of such a suspension of the embargo, while it would still continue to be enforced against France, you expatiated largely, still speaking however, as I understood, your own individual sentiments.

It was suggested by you that America, in that case, would probably arm her merchant ships against the aggressions of France—an expedient to which, you observed, it would be perfectly idle to resort against Great Britain. The collision of armed vessels would probably produce war, and the United States would be thus brought into the very situation in which we must wish to place them—that of hostility to France, and virtual, if not formal alliance with Great Britain.

In our second conference, you repeated and enforced these arguments, calculated to induce the British government to consent to the repeal of the orders in council, and in this conference, though not stating yourself to be authorized by your government, formally to offer the suspension of the embargo as an immediate consequence of that repeal, yet you did profess (as I understood you) a readiness to take upon yourself to make that offer, provided that I would give you beforehand an unofficial assurance

that coupled with that offer so made, the demand of the repeal of the orders in council of January and November, 1807, would be favourably received.

I, of course, declined to give any such previous assurance; but as you appeared to attach great importance to this suggestion, and as I was led to think that a compliance with it might relieve you from a difficulty in executing the instructions of your government, I consented to take a few days to consider of it, and to reserve my definitive answer until I should see you again.

I never doubted in my own mind, as to the inexpediency and impropriety of encouraging you to take an unauthorized step, by an unofficial promise that it should be well received.

But, in a matter of such delicacy, I was desirous of either confirming or correcting my own opinion by the opinions of others.

The result was, that in a third interview which took place shortly after the second, I had the honour to inform you, that after the most mature deliberation, I found it impossible to yield to your suggestion, and that it therefore remained for you to frame your proposition according to the instructions of your government or to your own unbiased discretion.

My own share in these several conferences beyond what is implied in the above statement, was very small.

I have, as you know, always rather wished to refer the argumentative discussion of the subject of the orders in council, to the official correspondence, I have more than once been taught to expect you to open upon it, than to engage with you in a verbal controversy, which, if confined to ourselves, would be useless; if afterwards to be reduced into writing for the purpose of being communicated to our respective governments, superfluous.

But to the representations which you have repeatedly made against the orders in council, of January and November, as "violating the rights of the United States, and affecting most destructively their best interests, upon

grounds wholly inadmissible both in principle and in fact," I have uniformly maintained the "unquestionable right" of his majesty to "resort to the fullest measures of retaliation, in consequence of the unparalleled aggression of the enemy, and to retort upon that enemy, the evils of his own injustice;" and have uniformly contended that "if third parties suffer from those measures, the demand of reparation must be made to that power which first violates the established usages of war and the rights of neutral states."

There was indeed one point upon which I was particularly anxious to receive precise information, and upon which, from your candour and frankness, I was fortunate enough to obtain it.

The connecting together, in your proposed overture, the suspension of the embargo and the repeal of the orders in council (as well those of November, as the preceding one of the 7th of January) might appear to imply that the embargo had been the immediate consequence of those orders; and I was therefore desirous to ascertain whether, in fact, the orders in council of November, had been known to the government of the United States, previously to the message of the President, proposing the embargo, so as to be a moving consideration to that message.

I had the satisfaction to learn from you, sir, that such was not the fact; that rumours indeed might have reached America of *some* measure of further retaliation being in the contemplation of the British government, that perhaps (as I understood you) some more severe and sweeping measure might have been expected:—but that of the orders in council of the 11th of November as having been actually issued, there was no certain knowledge in America, or at least none in the possession of the American government, at the time of proposing the embargo.

Such, sir, is according to the best of my recollection, correctly the substance of what has passed between us at our several interviews, previous to the presentation of your official letter:—and such I have represented to have been the substance of what passed on these several occasions, in

the report of our conferences which it has been my duty to make to the king.

If, in this recapitulation, there is any thing mistaken, or any thing omitted, you will do me the justice to believe the error unintentional, and you may rely on my readiness to set it right.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

WILLIAM PINKNEY, Esq. &c. &c. &c.

[COPY.]

GREAT CUMBERLAND PLACE, SEPT. 24, 1808.

SIR,

I HAVE the honour to acknowledge the receipt of your answer to my official note of the 23d of last month, relative to the British orders in council of January and November, 1807, together with a statement of "the substance of what has passed between us at our several interviews, previous to the presentation of that note."

I shall lose no time in transmitting to my government copies of both these papers, upon the last of which I will take the liberty, in the course of a few days, to trouble you with some observations.

I have the honour to be, &c.

(Signed)

WILLIAM PINKNEY.

The Right Hon. GEORGE CANNING, &c. &c. &c.

[TRIPLECATE.]

LONDON, OCT. 11, 1808.

SIR,

I HAVE the honour to transmit enclosed a copy of my reply to Mr. Canning's letter to me of the 23d of last month, accompanying his official answer, of the same date, to my note of the 23d of August.

I have the honour to be, &c.

WM. PINKNEY.

The Hon. JAMES MADISON, Esq. &c. &c. &c.

[COPY.]

To Mr. Canning.

GREAT CUMBERLAND PLACE, OCT. 10, 1808.

MR.

IF my reply to the letter which you did me the honour to address to me on the 23d of last month, should be of greater length than the occasion may be thought to require, you will, I am sure, impute it to its real cause, an earnest desire on my part, arising from a feeling of sincere respect for you, that the statement, which I am to give of facts deemed by you to be important, should be full as well as accurate.

I will not fatigue you, sir, with assurances that no person could be less disposed than I am to find fault with the object of your letter, which appears to be to guard against all misrepresentation of "what has passed in our late interviews beyond what you find recorded in my note." You have told me that I have, personally, no concern in that object, and I did not require to be told that my government has as little. I understand, indeed, that the circumstance which has suggested a peculiar motive for this proceeding, was one of those newspaper misrepresentations, which every day produces where the press is free, which find no credit and beget no consequence, and for which it is greatly to be feared your expedient will provide no remedy. Of my conduct, when that circumstance occurred, in giving you unsolicited proofs that I had transmitted to Mr. Secretary Madison a faithful report of our conferences, mistaken by public rumour or private conjecture, it is not necessary for me to speak, for you have yourself done justice to it.

The motive, to which I am indebted for the honour of your letter, appears to have been instrumental in producing another effect equally unexceptionable. But you will allow me to say, that until the receipt of that letter, I had not been apprized, by the slightest intimation, that it was in any degree owing to such a cause that you declined, on

the part of his majesty's government, after two conferences, in which I had been suffered, if not encouraged, to unfold myself, individually as well as officially, at great length and with perfect frankness, to give an answer to my verbal overture.

At our first interview, (on the 20th of June) verbal communication was not discountenanced, but commended: For, after I had made myself understand as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course, but immediately added, that you presumed I did not; for that the course I had adopted was well suited to the occasion. My reply was in substance, that the freedom of conversation was better adapted to our subject, and more likely to conduct us to an advantageous conclusion, than the constraint and formality of written intercourse, and that I had not intended to present a note. At the second interview, (on the 23d of July) it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable, as a preparatory course; and it was not until the third interview, (on the 29th July) that it was rejected as inadmissible. But even then I was not told, and had not the smallest suspicion, that this rejection was to be ascribed, either wholly or partially, to the motive which your letter has since announced to me. That this motive had, nevertheless, all the influence now imputed to it. I am entirely confident, and I take notice of it only because, as I have not mentioned it to my government in my official account of our conferences, I can no otherwise justify the omission, either to it or to you, than by showing that I had in fact no knowledge of the fact when that account was transmitted.

I may take occasion to set forth, in the present letter, the import of all that can be material of our several conversations, according to my recollection of them; but there are some points to which I ought to pay a more particular attention, because you have thought them entitled to it;

although I should myself, perhaps, have been inclined to think that they had lost much of their importance by the presentation of my note and the receipt of your written answer; both of which are perfectly intelligible, upon these points at least, without the aid of the conferences that preceded them.

You observe that "the principal points, in which the suggestions, brought forward by me in personal conferences, appear to you to have differed in some degree from the proposal stated by me in writing, are two; the first, that in conversation the proposal itself was not distinctly stated, as an overture authorized by my government; the second, that the beneficial consequences, likely to result to this country from the acceptance of that proposal, were "persuaded" through more ample "illustrations."—

With regard to the first of these supposed differences, I feel persuaded, sir, that, upon further recollection, it will occur to you, that, at our first conference, I told you explicitly that the substance of what I then suggested, that is to say, that your orders being repealed as to us, we would suspend the embargo as to Great Britain, was from my government; but that the manner of conducting and illustrating the subject, upon which I had no precise orders, was my own. I even repeated to you the words of my instructions, as they were upon my memory; and I did not understand, either then or afterwards, that there was any doubt as to their existence or their sufficiency, or any desire to have a more exact and formal communication of them while the result of our discussions was distant and uncertain. I said undoubtedly that I had been directed to require the revocation of the British orders in council; but I said also, that, although the government of the United States still supposed itself to be authorized to expect their repeal, upon the ground of right, as it existed from the first (a subject, however, which I informed you I did not wish at that time to agitate); I was notwithstanding empowered to give you the above mentioned assurances, which would, as I presumed, hold out inducements to Great

Britain, as well on the score of policy, as on that of justice, to fulfil that expectation. I should scarcely have undertaken to offer such assurances as from myself, or upon my own "conviction" that the President would act in conformity with them. And I should still less (if that were possible) have ventured to ask of you that you would make them, in that form, the subject of repeated conferences, and even of reference to others, as placing the question of a recall or continuance of the orders in council upon new grounds of prudence and equity.

If it is merely intended (as I doubt not it is) to say that I did not make, or declare my intention to make, my overture in writing, before I had endeavoured to prepare for it by personal explanations such a reception as I felt it deserved, and before I could ascertain what shape it would be most proper to give to it, or how it would be met by this government, nothing can be more correct.

It was my sincere wish, that my proposal, which I believed to be advantageous to Great Britain, as well as honourable to the United States, should be accepted; and accordingly I preferred a mode of proceeding which, while it was calculated to avoid unprofitable discussions, upon topics of some delicacy and great difficulty, would furnish opportunities for frank and friendly communication upon all the bearings of my proposal, and lead to the result at which I aimed, if that result should be practicable, in such way as, upon mature reflection, and after a liberal interchange of sentiments, should be found to be most for the honour of our respective governments. These views were laid before you without reserve, and seemed to be approved; and I confess to you, sir, that when I was afterwards informed that, if I would obtain an answer to my overture, I must make it in writing, and that I must not look for any previous intimation of the nature of that answer, I did not allow myself any longer to anticipate with much confidence such an issue as I desired.

The second difference, which your letter supposes to exist between my note and verbal suggestions, cannot I

think, in any view be very material. . I will say something upon it, however.

My note declares, that if I forbear to pursue certain ideas through all the illustrations of which they are susceptible, it is because our personal conferences, as well as the obvious nature of the ideas themselves, render it unnecessary. This implies, undoubtedly, that more had been said in our conferences, explanatory of these ideas, than is to be found in the note itself; and that implication can scarcely be otherwise than true, if I "expatiated largely," as you very justly say I did, "upon the consequences of a suspension of the embargo as to Great Britain, while it still continued to be enforced against France."

The general idea to which the note refers is, that justice and interest conspired to recommend that you should take advantage of my proposal. The particular positions are that, if your orders and our embargo should be rescinded in the manner suggested, our commercial intercourse would be immediately revived; that if France followed your example and retracted her decrees, the avowed purpose of your orders would be accomplished; that, if France refused to retract, the American embargo, continuing as to her, would occupy the place of your orders, and perform their office, even better than they could perform it themselves, without any of the disadvantages inseparable from such a system.

It is certain that in our conversations I endeavoured to prove that these general and particular notions were founded in truth, by a variety of arguments, thrown out in a very desultory way, with more zeal than precision, and with that entire freedom, which unlimited confidence in your candour, and a firm opinion that the views of my government would derive new titles to respect from a full examination, were calculated to produce.

I should not deal ingenuously with you, sir, if I were to pretend that I think myself able to recapitulate these disjointed arguments, as they were actually delivered; and I am quite sure that I shall consult your gratification, as well

as my own credit, by declining such an undertaking. But I think I can state, in a condensed form, what I intended you should understand; and I presume that what I did say was not very wide of my real impressions.

Upon the footing, on which my overture would place the justice of the British orders, I did not go into much detail, at any one of the three interviews mentioned in your letter. But, combining my unconnected and occasional observations on that point, as they were made at different times, and more especially as they were afterwards given and enlarged upon when I had the honour to see you on the 26th of August, (of which, however, it is proper to say I have only a very scanty memorandum) their import will not, perhaps, be found to be much, if at all mistaken in such parts of the following statement as relate to that branch of the subject.

I meant to suggest, then, that upon your own principles it would be extremely difficult to decline my proposal; that your orders inculcate as the duty of neutral nations, resistance to the maritime decrees of France, as overturning the public law of the world, and professedly rely upon that duty, and an imputed abandonment of it, for their inducement and their justification; that of these orders, that of the 7th of January, 1807, (of which the subsequent orders of November are said, in your official reply to my note of the 23d of August, to be only an extension, "an extension in operation not in principle") was promulgated and carried into effect a few weeks only after the Berlin decree had made its appearance, when the American government could not possibly know that such a decree existed, when there had been no attempt to enforce it, and when it had become probable that it would not be enforced at all, to the prejudice of neutral rights; that the other orders were issued before the American government, with reference to any practical violation of its rights, by an attempt to execute the Berlin decree in a sense different from the stipulations of the treaty subsisting between the United States and France, and from the explanations given

to general Armstrong by the French minister of marine, and afterwards impliedly confirmed by general Champagny, as well as by a correspondent practice, had any sufficient opportunity of opposing that decree, otherwise than it did oppose it; that your orders, thus proceeding upon an assumed acquiescence not existing in fact, retaliated prematurely, and retaliated a thousand fold, through the rights of the United States—wrongs rather threatened than felt, which you were not authorized to presume the United States would not themselves repel, as their honours and their interests required; that orders, so issued, were, to say the least of them, an unseasonable interposition between the injuring and the injured party, in a way the most fatal to the latter; that by taking justice into your own hands, before you were entitled to do so, at the expense of every thing like neutral rights, and even at the expense of other rights justly the objects of yet greater sensibility, and by inflicting upon neutral nations, or rather upon the United States, the only neutral nation, injuries infinitely more severe and extensive than it was in the power of France to inflict; you embarrassed and confounded and rendered impracticable that very resistance which you demanded of us; that my proposal destroyed all imaginable motives for continuing, whatever might have been the motives for adopting, this new scheme of warfare; that it enabled you to withdraw, with dignity and even with advantage, what should not have come between France and us; that its necessary tendency was to place us at issue with that power, or in other words, in the precise situation in which you have maintained we ought to be placed, if it should persist in its obnoxious edicts; that the continuance of our embargo, so modified, would be at least equivalent to your orders; for that, in their most efficient state, your orders could do no more, as regards the United States, than cut off their trade with France and the countries connected with her; and that our embargo, remaining as to France and those countries, would do exactly the same; that if the two courses were barely, or

even nearly upon a level, in point of expediency; Great Britain ought to be forward to adopt that which was consistent with the rights, and respectful to the feelings of others; that my proposal, however, had powerful recommendations which the orders in council had not; that it would re-establish, without the hazard of any disadvantage, before new habits had rendered it difficult if not impossible, a traffick which nourished your most essential manufactures, and various other important sources of your prosperity; that it would not only restore a connection valuable in all its views, but prepare the way for the return of mutual kindness, for adjustments greatly to be desired—and in a word, for all these consequences which follow in the train of magnanimity and conciliation, associated with prudence and justice.

Among the observations intended to illustrate my opinion of the certain probable and possible effects of the concurrent acts which my proposal had in view, were those to which you allude in the sixth paragraph of your letter. Having stated that renewed commercial intercourse between Great Britain and the United States would be the first effect, I remarked, in the progress of the conversation, that the edicts of France could not prevent that intercourse, even if France should adhere to them; although Great Britain, by her superior naval means, might be able to prevent the converse of it; that the power of France upon the seas was in no degree adequate to such a purpose; and if it were otherwise, that it was not to be supposed that the United States, resuming their lawful commerce with this country, after a recall of the British orders in council, would take no measures against systematick interruptions of that commerce by force and violence, if such should be attempted.

If, when I was honoured with the different interviews before mentioned, I had been able to conjecture the nature of the arguments, which were to have an influence against my proposal, as I now find them stated in your answer to my note, I should probably have ventured to suggest, in

addition to the remarks actually submitted to your consideration, that if "the blockade of the European continent," by France and the powers subservient to, or in combination with her, to which your orders, as "a temperate but determined retaliation," were opposed, has been "raised even before it had been well established," and if "that system" so opposed, "of which extent and continuity were the vital principles, has been broken up into fragments utterly harmless and contemptible," there seems scarcely to be left, in your own view of the subject, any intelligible justification for perseverance in such of the retaliatory measures of Great Britain, as operate through the acknowledged rights of a power, confessedly no party to that combination, and ready to fulfil her fair neutral obligations, if you will suffer her to do so. Under such circumstances, to abandon what is admitted to have lost its only legitimate object, is not "concession;" it is simple justice. To France, indeed, it might be concession. But it is not France, it is the government of America, neither subservient to France, nor combined with France, a third party, whose rights and interests your orders deeply affect without any adequate necessity, according to your own showing, that requires their recall, and that too upon terms, which cannot but promote the declared purposes of these orders, if any remain to be promoted. I say "without any adequate necessity according to your own showing;" for I am persuaded, sir, you do not mean to tell us, as upon a hasty perusal of your answer to my note might be imagined, that those rights and interests are to be set at naught, lest "a doubt should remain to distant times of the determination and the ability of Great Britain to have continued her resistance," or that your orders may indefinitely give a new law to the ocean, lest the motive to their repeal should be mistaken by your enemy. If this might indeed be so, you will perhaps permit me to say, that highly as we may be disposed to prize the firm attitude and vast means of your country at this eventful moment, it would possibly suggest to some minds a reluctant doubt on

the subject of your observation; "that the strength and power of Great Britain are not for herself only, but for the world."

I might also have been led to intimate that my proposal could apparently lose nothing by admitting, that "by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of 'the before mentioned' blockade of the European continent, precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American government would most effectually have contributed to its success." Yet I should probably have thought myself bound to remind you that, whatever may be the truth of this speculation, the same embargo withheld our tonnage and our productions from that communication with the colonies of your enemies and with the European continent, which you had asserted your right to prevent; which as a direct communication (with the continent) you had in fact prohibited; which, even through British ports, or in other qualified forms, you had professed to tolerate, not as that which could be claimed, but as an indulgence that could at any time be withdrawn; which, as a traffick for the United States to engage in, you had at least discouraged, not only by checks and difficulties in the way of its prosecution, but by manifesting your intentions to mould it into all the shapes which the belligerent, fiscal, or other peculiar policy of Great Britain might require, and to subject it to the exclusive jurisdiction of her municipal code, armed with all the prerogatives of that universal law, to which nations are accustomed to look for the rights of neutral commerce.

In giving an account of our second conference, you say, "that, though not stating myself to be authorized by my government formally to offer the suspension of the embargo, as an immediate consequence of the repeal of the orders in council, yet I did profess my readiness to take upon myself to make them that offer, provided that you would give me before hand an unofficial assurance that, coupled with

that offer, so made, the demand of the repeal of the orders would be favourably received; that you of course declined to give any such previous assurance; but, as I appeared to attach great importance to this suggestion, and you were led to think that a compliance with it might relieve me from a difficulty in executing the instructions of my government, you contented to take a few days to consider of it, and to reserve your definitive answer until you should see me again." You then observe that you "never doubted, in your own mind, as to the inexpediency and impropriety of encouraging me to take an unauthorized step, by an unofficial promise that it should be well received." I am sure you did not, sir; but I must take the liberty to say that I am equally sure, that I never thought of asking you to give me encouragement to take an unauthorized step of any kind. I am, indeed, truly mortified, that my conduct has appeared to you in that light; and I should not be readily consoled, if I did not reflect that, in condescending to listen, even for a moment, to what must have struck you as an irregularity, as vain and nugatory in its purpose as reprehensible in its principle, you must at least have given me credit for good intentions, and for a strong desire, sincerely felt although erroneously obeyed, that our countries should find themselves in that relative position which suits the interests and tends to the happiness of both.

When I professed a readiness to make my proposal in writing, it was, as you state, provisionally; but I did not intimate that I was acting without authority, nor did I comprehend that such was, as I now know it to have been, your impression. The provisional nature of my offer arose out of circumstances, and was afterwards pressed, upon conviction that, if it was meant to adopt the views of the President, nothing more could be necessary. I understood you to be desirous of ascertaining, whether I was empowered and disposed with a view to a final arrangement, to present, what I had suggested, in a written form, as an overture originating with my government.—I said, of course, that, every thing being first matured, a note should

be presented, but that I would, with your permission, take a little time to consider of the manner and terms. I did not, at that time, suppose that we were conversing about a written proposal which was to be made only to be rejected, or even for the purpose of deliberation, and consequently, in professing my willingness to make it as soon as we were prepared for it, I presumed that I had done all that you desired. And I was confirmed in this opinion; not only by your saying nothing, as I supposed, to the contrary, but by your requesting me, as I was about to leave the room, to employ myself, before the next interview, upon such a note as we had been talking of, and then retracting that request by observing, that I would doubtless first desire to know what were your ideas and intentions upon the subject of it, with which I was given to understand, I should be made acquainted at another conference.

At the third interview, after speaking of a transaction upon the Lakes, of which your traders complained, and of another occurrence in the bay of Passamaquoddy, you observed, that you had thought long and anxiously upon what I had suggested to you;—that the subject had at first struck you as being much more simple than upon careful examination it had been found to be;—that, in the actual state of the world, it behooved both you and me to move in this affair with every possible degree of circumspection; that without some explicit proposal on my part in writing, upon which the British government could deliberate and act, nothing could be done; and, finally, that you must leave me to consult my own discretion whether I would make such a proposal.

It appeared to me that, if this determination should be persisted in, my overture was not likely to be successful, and I urged, accordingly, the propriety of going on in a course which would lead us to a better issue. That course was, that we should understand one another as to our respective views, and that a concise note, which I had in fact prepared since the last meeting, should then be presented and acted upon. You informed me that my wish to

this particular could not be acceded to; that if I presented a note, you must be left at perfect liberty to decide upon what it proposed; that you could not give me even an intimation of the probable consequences of it; and, in a word, that you would neither invite nor discourage such a proceeding. You added that there were some points, belonging to the subject, which it would be proper to discuss in writing, one of which was the connexion between our embargo and your orders of November, supposed to be implied by my proposal. I remarked that, with an actual result in view, and with a wish to arrive at that result without delay, it could not be advisable to entangle ourselves in a written correspondence, undefined as to its scope and duration, upon topics on which we were not likely to agree; and that, if I were to frame my note with a knowledge that it was to provoke argument, instead of leading at this crisis to a salutary change in the state of the world, you must be conscious that I too must argue. And where would this end? To what wholesome consequence would it conduct us? At the close of the interview I observed that, as the footing upon which the subject was now placed, made delay of no importance, I should take time to prepare such farther proceeding as the occasion required.

On the 26th of August, I had the honour to see you again, and, after entering more at large, than I had before believed to be proper, into a consideration of the effect of my proposal on the equity of adhering to your orders in council; and, after reading to you parts of my instructions, I delivered an official note, in which the proposal was made in the form required.

Something was said at this interview of the affair of the Chesapeake, and the President's proclamation which it is not, I presume, necessary to repeat. It will be sufficient to state, that you asked me what was to be done with these subjects? And that my reply was, that they had no connection with the present; but that I could say, with confidence, that my government had every disposition to attend to them, with a view to such an adjustment as would be

honourable to both parties. I did not suppose that it was expected (for you did not intimate such an expectation) that renewed negotiation upon these points should, as well as the repeal, upon terms, of your orders in council, be invited by a formal overture from the government of America.

I will not trouble you with many observations more.

You state in your letter that "there was one point upon which you were particularly anxious to receive precise information, and upon which, from my candour and frankness, you were fortunate enough to obtain it." This was, "whether in fact the orders in council of November had been known to the government of the United States, previously to the message of the President proposing an embargo, so as to be a moving consideration to that message?" I quote this passage, principally, that I may recall to your recollection that my suggestions upon the subject of it were not made officially, or as being authorized or furnished by any communication from my government, or in answer to any direct inquiries on your part. They were very briefly made, near the close, as I think, of our third interview, in consequence of your intimation, (intended perhaps to amount to an inquiry) that my proposal implied, that the embargo had been produced by the orders of November; to which you added that this could not be admitted, and, (as I comprehended what you said) that it even required to be made the subject of some notice or discussion in writing as intimately connected with my proposal, if it should be brought forward in that shape; and I understood you to assign this as one of the reasons why a written overture was indispensable. In replying to that intimation, and the remarks which followed it, I professed to speak, as I did in fact speak, from general information only, and disclaimed, as it was my duty to do, all authority to say more upon the nature and origin of the embargo, than I had some time before communicated to you, in obedience to the orders of the President. The purpose of my observations was chiefly to show that there was no induce-

ment for embarking in formal discussions upon this point ; and I assured you that it was not in my power, either as respected instructions from my government, or knowledge of facts to do so. My opinion was, and I spoke accordingly, that it was one of these questions which might be left completely at rest, without the least injury to the wisdom or the justice of our conclusions, upon the great object of our conferences. There could be no objection, however, to my giving you on this head, such conjectural information as I was able. On the contrary, by fully disclosing to you my own materials for forming an opinion upon it, you would be enabled more distinctly to see that I could take no part in any discussion which you might propose to apply to it. And I could not but be assured that any anxiety you might feel to obtain a knowledge of the facts in question, sprung from considerations which had every claim to my respect ; for I knew that your mind was far above the reach of prejudices, which would ascribe the American embargo to participation in the councils or views of your adversary, or of any foreign power whatsoever.

My suggestions were to the following effect : that I believed that no copy of your orders of November had arrived in the United States at the date of the President's message ; that a recent change in the conduct of France to our prejudice did appear to be known ; that intelligence had been received, and a belief entertained, of your intention to adopt some further measure, as a measure of retaliation against France, by which our commerce and our rights would be affected ; that there was reason to conclude that you had actually adopted such a measure ; that, (as I collected from American newspapers) this had appeared from private letters, and the newspapers of this country, received in the United States some days before the message of the President, and probably known to the government ; that, in a word, various information concurred to show that our trade was likely to be assailed by the combined efforts of both the belligerent parties ; and that the embargo was a

measure of wise and peaceful precaution adopted under this view of reasonably anticipated peril.

You observe, in another part of your letter, "that you have always rather wished to refer the argumentative discussion of the subject of the orders in council to the official correspondence which you have more than once been taught to expect me to open upon it." If I should object to any part of this statement, of which the substance is undoubtedly correct, it would be to the words "more than once." Your wish has always appeared to be such as you now represent it, and you had reason to expect that I would commence a written discussion of the orders of November, soon after their publication. I had told you that I should do so, and you had said that there could be no objection to it. But you were afterwards informed, that upon reflection I had determined to leave the subject where it was until I should know the pleasure of my government.

The orders had been officially communicated not to me, but to Mr. Madison, through the British minister at Washington. It seemed therefore, to be proper (unless my instructions should make it otherwise) that the view which the government of the United States took of them, should find its way to you through the same channel; and accordingly, the letters of Mr. Madison to which I have referred in my note of the 23d of August, did open at great length, a discussion, which I could have no inducement to shun, although I did not continue to think myself authorized to commence it.

It only remains to add that your share in our several conversations was, what you represent it to have been, not considerable, and that your manner, although reserved, was as it always is, perfectly friendly.

I need not say that, if in this letter written under the influence of sincere concern that the proposal I had the honour to lay before you has been unsuccessful, any thing is to be found which you could wish to be otherwise than it is, I shall be the first to regret that I have not been able

to do justice to my own feelings and intentions. I have the honour to be, with the highest consideration, &c.

(Signed)

WILLIAM PINKNEY.

The Right Hon. GEORGE CANNING, &c. &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, COMMUNICATING FURTHER INFORMATION RELATIVE TO THE AFFAIRS OF THE UNITED STATES WITH GREAT BRITAIN. JAN. 30, 1809.

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE U. STATES.

I TRANSMIT to Congress a letter recently received from our minister at the court of St. James's, covering one to him from the British secretary of state, with his reply. These are communicated, as forming a sequel to the correspondence which accompanied my message to both houses, of the 17th instant.

TH. JEFFERSON.

Mr. Pinkney to Mr. Madison.

LONDON, NOV. 25, 1808.

SIR,

I HAVE the honour to send enclosed a copy of a letter received last night from Mr. Canning, in answer to my letter to him of the 10th of last month.

The tone of this letter renders it impossible to reply to it with a view to a discussion of what it contains; although it is not without farther inadvertences as to facts, and many of the observations are open to exception. I intend, however, to combine, with an acknowledgment of the receipt of it, two short explanations. The first will relate to the new and extraordinary conjecture which it intimates, that my authority was *contingent*; and the second will remind Mr. Canning that my letter of the 10th of October

does not, as he imagines, leave unexplained the remark, that "the *provisional* nature of my offer to make my proposal in writing, arose out of circumstances;" but on the contrary, that the explanation immediately follows the remark.

The Union is not yet returned from France. Lieut. Gibbon arrived in London more than three weeks ago, and delivered your letter of the 9th of September, with duplicates of papers in the case of the Little William, and copies of letters which lately passed between the department of state and Mr. Erskine. I have the honour to be, with the highest consideration, &c.

(Signed)

WM. PINKNEY.

The Hon. JAMES MADISON, &c. &c. &c.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, NOV. 22, 1808.

MR.

I REGRET exceedingly that an unusual and unintermitting pressure of official business has prevented me from finding an earlier opportunity to reply to your letter of the 10th of last month.

The observations which I have to offer upon some parts of that letter, are not, indeed, of such a nature as to make it matter of any great importance whether you receive them a week sooner or later; as they refer less to any point of publick interest to our two governments, than to what has passed personally between ourselves.

But I should have been much mortified if you could have been led to believe me deficient in attention to you; the manner, as well as the substance of the communication which I have had the honour to receive from you, entitling it to the most prompt and candid consideration.

Your understanding of the motives, which induced me to accompany my official note of the 23d of September, with my letter of the same date, is so far imperfect, as that you seem to imagine that the wish to guard against misrepresentation, was the only motive which induced me

to write that letter, and that, from that motive alone, I should in any case have troubled you with it: whereas I must have expressed myself very incorrectly indeed, if I did not convey to you the assurance, that, if what had passed between us in conversation had not been referred to by you in your official letter of the 28d August, I certainly should not have thought it necessary or proper to preserve any written record of your verbal communications, which I understood at the time to be confidential, and which I certainly was so far from attempting or intending to "discountenance," that I have no doubt but I expressed myself (as you say I did) in favour of the "course which you adopted as well suited to the occasion." But you state at the same time most correctly, that it was as a "preparatory course that I understood and encouraged this verbal and confidential communication." I never did nor could understand it as being intended to supersede or supply the place of an official overture. I never did nor could suppose that the overture of your government, and the answer of the British government to it were intended to be intrusted solely to our respective recollections. Accordingly when the period arrived at which you appeared to be prepared to bring forward an official proposal, I did, no doubt, express my expectation that I should receive that proposal in writing.

It is highly probable that I did not (as you say I did not) assign to you as the motive of the wish which I then expressed, my persuasion that written communications are less liable to mistake than verbal ones: because that consideration is sufficiently obvious, and because the whole course and practice of office is in that respect so established and invariable, that I really could not have supposed the assignment of my specific motive to be necessary, to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

I had taken for granted all along that such would, and such must be, the ultimate proceeding on your part; how-

ever you might wish to prepare the way for it by preliminary conversations.

In framing your note I did not pretend to anticipate how much of what had been stated by you in our several conferences you would think it proper to repeat in writing. But whatever the tenour of your note had been, I should have felt it right to conform strictly to it, in the official answer; avoiding any reference to any part of your verbal communications, except such as, by repeating them in writing, I should see that it was your intention to record as official.

I confess, however, I was not prepared for the mixed course which you actually did adopt, I am persuaded (I am sincerely persuaded) without any intention of creating embarrassment; that of referring generally to what had passed in our conferences, as illustrative of your official proposition, and as tending to support and recommend it, but without specifying the particular points to which such reference was intended to apply; a course, which appeared at first sight to leave me no choice, except between the two alternatives of either recapitulating the whole of what you had stated in conversation, for the purpose of comprehending it in the answer, or of confining myself to your written note, at the hazard of being suspected of suppressing the most material part of your statement.

The expedient to which I had recourse, of accompanying my official note with a separate letter, stating, to the best of my recollection, the substance of what I had heard from you in conversation, appeared to me, after much deliberation, to be the most respectful to you.

Such having been the motives which dictated my letter, I cannot regret that it was written, since it has produced, at a period so little distant from the transaction itself, an opportunity of comparing the impressions left on our minds, respectively, of what passed in our several conferences, and of correcting any erroneous impressions on either side.

There are two points in which our recollections do appear to differ in some degree.

The first relates to the authority which you had, and

that which I understood you to state yourself to have, at the time of our first conference, for bringing forward a direct overture, in the name of your government; the second, to the expectation, which I stated myself to have entertained, "more than once," of your opening an official correspondence on the subject of the orders in council.

With respect to the first point, you will give me credit when I assure you that my understanding of what was said by you, not only in the first, but in our second conference, was precisely what I have stated it to be in my letter; and you will (I hope) forgive me, if, after the most attentive perusal of your letter of the 10th of October, and after a careful comparison of different passages in it, while I am compelled by your assurance to acknowledge that I must have misapprehended you, I find grounds in your statement to excuse, if not to account for, my misapprehension.

According to your recollection you told me explicitly in our first conference, "that the substance of what you then suggested, that is to say, that our orders being repealed as to the United States, the United States would suspend the embargo as to Great Britain, was from your government; that the manner of conducting and illustrating the subject (upon which you had no precise orders) was your own;" and you even quoted part of your instructions to me which was to that effect.

In a subsequent paragraph you state, that "nothing can be more correct than my apprehension that you did not make, nor profess to intend making, an overture, in writing, before you had endeavoured to prepare for it such a reception as you felt it deserved, and before you could ascertain what shape it would be most proper to give to that overture, and how it would be met by the British government."

And in another part of your letter you admit, that when you expressed your readiness to make your proposal in writing, it was, (as I have stated) *provisionally*: and you inform me, that "the provisional nature of your offer arose out of circumstances," the nature of which circum-

stances you do not explain, nor have I any right to require such an explanation.

But, comparing these several statements together, seeing that, in our first interview, you declared no intention of making a proposal in writing, that in our second interview (a month or six weeks afterwards) you described that intention as "*provisional*" and contingent, and protesting at the same time (as I do in the most solemn manner) that I cannot find any trace in my memory of any communication whatever of any part of your instructions communicated to me *as such*; seeing also, that whatever might be the nature and extent of your instructions from the President of the United States, as to the substance of the overture to be made to the British government, the manner, the time, and the conditions of that overture were evidently considered by you as left to your own discretion, it surely may be pardonable in me to have mistaken (as I most unquestionably must have done) the precise limits, at which the authority of your government ended, and your own discretion began, and to have imagined (which I very innocently did) that a proposition over which you appeared to have a power so nearly absolute, was a proposition in a great measure of your own suggestion. I do not mean that I supposed you to bring forward such a measure without reference to the knowledge which you must of course have had of the general feeling, disposition, and intentions of your government, but without its specifick instructions for that purpose at that time.

In attributing to you this exercise of judgment, in addition to the many others, which it is confessed you were at liberty to exercise, I really intended to convey no imputation disrespectful to you. I can conceive abundance of cases, in which it would have been not only excusable, but highly meritorious.

My mistake, at least, was a very harmless one; as whether the fact were, that you had no precise authority to give in an official proposal, or that you had such an authority, but subject to contingencies which had not

occurred, the practical result must be of necessity the same.

What these contingencies might be it is not for me to inquire; but, if they were of the nature of which I now cannot but conjecture they may have been; if the overture which you were authorized to make to the British government was to be shaped and turned according to the result of any other overture to any other government, I am then at once able to account for those appearances which misled me into a belief of the want of a precise authority on your part. This consideration leads me to the other point, on which alone there appears a difference between us upon any matter of fact, but a difference by no means so wide as it appears.

Admitting the general correctness of my statement, of the expectation which I was taught to entertain of a written communication from you on the subject of the orders in council, you add, that it was, however, only in November last, and immediately after the publication of the orders in council, that you had directly announced to me your intention of opening a correspondence upon them; an intention, from which you afterwards desisted, "until you should receive the pleasure of your government:" the correctness of this statement I do not dispute. But you, I am sure, will agree with me, sir, in recollecting how many times "more than once" since the period of that first intention of yours being announced and withdrawn, my expectations that you were about to "receive the pleasure of your government" upon this subject, have been excited by the notification in America, and the destination hither of ships employed by the United States, as it was generally supposed, for the special purpose of conveying representations or proposals from the American government to the government of France and Great Britain, upon the subject of their respective maritime decrees and orders.

Such was the universal belief, both in America and in England, upon the arrival of the Osage, upon that of the Hope, of the St. Michael, and of another vessel, named, I think,

the Union. I have, certainly, no right to affirm that you shared in the expectation, which so universally prevailed. I have no right to say that the government of the United States designedly created that expectation. But that it did prevail, and that I very sincerely believed it to be well founded, you, I think, must do me the justice to recollect; as in one instance, at least, that of the Osage, so strong was my persuasion that you must have received instructions from your government, that I took the liberty of sending to you to inquire whether you had not some communication to make to me; and received for answer that you had none.

It is to these missions that I particularly referred, when I said that I had "more than once expected you to open a correspondence with me upon the subject of the orders in council." This expectation it was, that alone prevented the sending instructions to Mr. Erskine, to reply to the note addressed to him by Mr. Madison, on the 25th of March, in answer to that note of Mr. Erskine in which he communicated the orders in council, and in allusion to these missions, particularly to that of the Osage, and to the expectation which had been founded here upon the return here of that vessel after its voyage to France, it was, that I made that declaration in parliament, which I see has been the subject of some misapprehension (I will not say misrepresentation) in America, that, "since the termination of Mr. Rose's mission, the American government had not made any communication here in the shape of remonstrance, or in a tone of irritation." I am not aware, sir, that there is any other part of your letter which requires that I should trouble you with many observations.

Your report of your answer to the inquiry, which I took the liberty of making, "whether the orders in council of November were known to the government of the United States previously to the message of the President proposing the embargo, was to be a moving consideration to that message," does not appear to differ in any material degree from my statement of it. That your answer to such an

inquiry was official, or authorized by your government, I did not assert nor presume. I have already said that it was not till you had, in your official letter of the 23d of August, referred to what passed in conversation, that I should have thought any such reference allowable on my part; and even then the generality of your reference precluded me from judging correctly, how much of what you had stated in conversation was from official authority, how much from your own personal information or opinion. You inform me that your answer to this question was of the latter description only: but, even if it were only from your individual authority, it was very material, and highly gratifying to learn, that the embargo, which had been sometimes represented, both here and in America, as the direct and immediate consequence of the orders in council of November, and as produced solely by them, was in your opinion, "a measure of precaution against reasonably anticipated peril."

The purpose of this letter is not to renew the discussion upon the subject of your proposal, but merely to clear up any misunderstanding which had existed between us in the course of that discussion.

I cannot conclude it, however, without adverting very shortly to that part of your letter, in which you argue that the failure of France, in the attempt to realize her gigantic project of the annihilation of the commerce of this country, removes all pretext for the continuance of the retaliating system of Great Britain.

This impotency of the enemy to carry his projects of violence and injustice into execution, might, with more propriety, be pleaded with him as a motive for withdrawing decrees at once so indefensible and so little efficacious for their purpose, than represented as creating an obligation upon Great Britain to desist from those measures of defensive retaliation which those decrees have necessarily occasioned. If the foundation of the retaliating system of Great Britain was (as we contend it to have been) originally just, that system will be justifiably continued in force,

not so long only as the decrees which produced it are mischievously operative, but until they are unequivocally abandoned, and, if it be thus consistent with justice to persevere in that system, it is surely no mean motive of policy for such perseverance, that a premature departure from it, while the enemy's original provocation remains unrepealed, might lead to false conclusions, as to the efficacy of the decrees of France, and might hold out a dangerous temptation to that power to resort to the same system on any future occasion; a result, which not Great Britain alone, but all commercial nations are deeply interested in preventing.

I have now, sir, only to express my sense of the candour and liberality with which this discussion has been conducted on your part, and my acknowledgments for the justice which you render to my disposition to treat you at all times with reciprocal respect, and to listen to you with the attention, to which personally, as well as officially, you have every claim.

I cannot forego the hope that it may yet fall to our lot to be instrumental in the renewal of that good understanding between our two governments, which is as congenial to the feelings, as it is essential to the interests of both countries; which nothing but the forced and unnatural state of the world could have interrupted, and which there is on the part of the British government, the most anxious and unabated desire to restore.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

Mr. Pinkney to Mr. Madison.

LONDON, DEC. 3, 1808.

SIR,

I HAVE the honour to send enclosed a copy of my reply to Mr. Canning's letter to me of the 22d ultimo. A copy of the letter, to which it is an answer, was transmitted a few days since by the British packet, and a duplicate has been sent to Liverpool.

The Union is not yet arrived from France; and we have no intelligence of her. I have the honour to be, &c.

WM. PINKNEY.

The Hon. JAMES MADISON, &c. &c. &c.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, NOV. 28, 1806.

SIR,

I HAVE had the honour to receive your letter of the 22d instant, and to transmit a copy of it to my government.

Without desiring to protract a discussion, in the conduct of which neither your sincerity nor mine, will, I feel assured, be doubted by any one, I may be permitted to say, that the authority, under which I acted in our late communications, was not contingent, as you now appear to conjecture, and that the remark contained in my letter of the 10th of October, "that the provisional nature of my offer to make my proposal in writing, arose out of circumstances," will be found explained in the same letter, by passages which immediately follow the remark.

I have said in my letter of October 10, that "I had no precise instructions" as to the "manner of conducting and illustrating the subject" confided to my management; but you will suffer me to enter my friendly protest against all suppositions that "the manner, the time, and the conditions of the overture were left to my own discretion," "that I had the power nearly absolute" over it, or that it was "in a great measure of my own suggestion."

I will trouble you no further, sir, on this occasion than to assure you that nothing could give me more sincere pleasure than to see fulfilled the hope which you express, that it may yet fall to our lot to be instrumental in the renewal of good understanding between our two governments. I have the honour to be, &c.

(Signed)

WILLIAM PINKNEY:

INAUGURAL ADDRESS,

OF THE PRESIDENT OF THE UNITED STATES. MARCH 4,
1809.

UNWILLING to depart from examples, of the most revered authority, I avail myself of the occasion now presented, to express the profound impression made on me, by the call of my country to the station, to the duties of which I am about to pledge myself, by the most solemn of sanctions. So distinguished a mark of confidence proceeding from the deliberate and tranquil suffrage of a free and virtuous nation, would, under any circumstances, have commanded my gratitude and devotion, as well as filled me with an awful sense of the trust to be assumed. Under the various circumstances which give peculiar solemnity to the existing period, I feel that both the honour and the responsibility allotted to me, are inexpressibly enhanced.

The present situation of the world is indeed without a parallel; and that of our country full of difficulties. The pressure of these two, is the more severely felt, because they have fallen upon us at a moment when national prosperity being at a height not before attained, the contrast resulting from this change, has been rendered the more striking. Under the benign influence of our republican institutions, and the maintenance of peace with all nations, whilst so many of them were engaged in bloody and wasteful wars, the fruits of a just policy were enjoyed in an unrivalled growth of our faculties and resources. Proofs of this were seen in the improvements of agriculture; in the successful enterprises of commerce; in the progress of manufactures and useful arts; in the increase of the public revenue and the use made of it in reducing the pub-

lick debt; and in the valuable works and establishments every where multiplying over the face of our land.

It is a precious reflection that the transition from this prosperous condition of our country, to the scene which has for some time been distressing us, is not chargeable on any unwarrantable views, nor, as I trust, on any involuntary errors in the publick councils. Indulging no passions which trespass on the rights or the repose of other nations, it has been the true glory of the United States to cultivate peace by observing justice, and to entitle themselves to the respect of the nations at war, by fulfilling their neutral obligations, with the most scrupulous impartiality. If there be candour in the world, the truth of these assertions will not be questioned. Posterity at least will do justice to them.

This unexceptionable course could not avail against the injustice and violence of the belligerent powers. In their rage against each other, or impelled by more direct motives, principles of retaliation have been introduced, equally contrary to universal reason and acknowledged law. How long their arbitrary edicts will be continued in spite of the demonstrations, that not even a pretext for them has been given by the United States, and of the fair and liberal attempts to induce a revocation of them, cannot be anticipated. Assuring myself that, under every vicissitude, the determined spirit and united councils of the nation will be safe guards to its honour and its essential interests, I repair to the post assigned me with no other discouragement than what springs from my own inadequacy to its high duties. If I do not sink under the weight of this deep conviction, it is because I find some support in a consciousness of the purposes, and a confidence in the principles which I bring with me into this arduous service.

To cherish peace and friendly intercourse with all nations, having correspondent dispositions; to maintain sincere neutrality towards belligerent nations; to prefer in all cases amicable discussion and reasonable accommodation of differences, to a decision of them by an appeal to

arms; to exclude foreign intrigues and foreign partialities, so degrading to all countries and so baneful to free ones; to foster a spirit of independence, too just to invade the rights of others; too proud to surrender our own; too liberal to indulge unworthy prejudices ourselves, and too elevated not to look down upon them in others; to hold the union of the states as the basis of their peace and happiness; to support the constitution which is the cement of the union, as well in its limitations as in its authorities; to respect the rights and authorities reserved to the states and to the people, as equally incorporated with, and essential to the success of the general system; to avoid the slightest interference with the rights of conscience or the functions of religion, so wisely exempted from civil jurisdiction; to preserve to their full energy the other salutary provisions in behalf of private and personal rights, and of the freedom of the press; to observe economy in publick expenditures; to liberate the publick resources by an honourable discharge of the publick debts; to keep within the requisite limits a standing military force, always remembering, that an armed and trained militia is the firmest bulwark of republicks, that without standing armies their liberty can never be in danger; nor, with large ones, safe; to promote by authorized means, improvements friendly to agriculture, to manufactures, and to external, as well as internal commerce; to favour, in like manner, the advancement of science and the diffusion of information, as the best aliment to true liberty; to carry on the benevolent plans which have been so meritoriously applied to the conversion of our aboriginal neighbours from the degradation and wretchedness of savage life, to a participation of the improvements of which the human mind and manners are susceptible in a civilized state. As far as sentiments and intentions such as these can aid the fulfilment of my duty, they will be a resource which cannot fail me.

It is my good fortune, moreover, to have the path in which I am to tread, lighted by examples of illustrious services, successfully rendered in the most trying difficul-

ties by those who have marched before me. Of those of my immediate predecessor, it might least become me here to speak—I may, however, be pardoned for not suppressing the sympathy, with which my heart is full, in the rich reward he enjoys in the benedictions of a beloved country, gratefully bestowed for exalted talents, zealously devoted, through a long career, to the advancement of its highest interest and happiness. But the source to which I look for the aids, which alone can supply my deficiencies, is in the well-tried intelligence and virtue of my fellow-citizens, and in the councils of those representing them in the other departments associated in the care of the national interests. In these my confidence will, under every difficulty, be best placed; next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being, whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising republic, and to whom we are bound to address our devout gratitude for past, as well as our fervent supplications and best hopes for the future.

JAMES MADISON.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO BOTH HOUSES OF CONGRESS, AT THE COMMENCEMENT OF THE FIRST SESSION OF THE ELEVENTH CONGRESS, MAY 23, 1809.

FELLOW CITIZENS OF THE SENATE
AND OF THE HOUSE OF REPRESENTATIVES,

ON this first occasion of meeting you, it affords me much satisfaction to be able to communicate the commencement of a favourable change in our foreign relations; the critical state of which induced a session of Congress at this early period.

* VOL. III. 58

In consequence of the provisions of the act interdicting commercial intercourse with Great Britain and France, our ministers at London and Paris were, without delay, instructed to let it be understood by the French and British governments, that the authority vested in the executive, to renew commercial intercourse with their respective nations, would be exercised in the case specified by that act.

Soon after these instructions were despatched, it was found that the British government, anticipating, from early proceedings of Congress, at their last session, the state of our laws, which has had the effect of placing the two belligerent powers on a footing of equal restrictions, and relying on the conciliatory disposition of the United States, had transmitted to their legation here, provisional instructions, not only to offer satisfaction for the attack on the frigate Chesapeake, and to make known the determination of his Britannic majesty, to send an envoy extraordinary with powers to conclude a treaty on all the points between the two countries, but, moreover, to signify his willingness, in the mean time, to withdraw his orders in council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States.

These steps of the British government led to the correspondence and the proclamation now laid before you; by virtue of which, the commerce between the two countries will be renewable after the tenth day of June next.

Whilst I take pleasure in doing justice to the councils of his Britannic majesty, which no longer adhering to the policy which made an abandonment by France, of her decrees, a prerequisite to a revocation of the British orders, have substituted the amicable course which has issued thus happily; I cannot do less than refer to the proposal heretofore made on the part of the United States, embracing a like restoration of the suspended commerce, as a proof of the spirit of accommodation which has at no time been intermitted, and to the result which now calls for our congratulations, as corroborating the principles, by which the publick councils have been guided, during a period of the most trying embarrassments.

The discontinuance of the British orders, as they respect the United States, having been thus arranged, a communication of the event has been forwarded, in one of our publick vessels, to our minister plenipotentiary at Paris; with instructions to avail himself of the important addition thereby made, to the considerations which press on the justice of the French government a revocation of its decrees, or such a modification of them, as that they shall cease to violate the neutral commerce of the United States.

The revision of our commercial laws, proper to adapt them to the arrangement which has taken place with Great Britain; will doubtless engage the early attention of Congress. It will be worthy, at the same time, of their just and provident care, to make such further alterations in the laws, as will more especially protect and foster the several branches of manufacture, which have been recently instituted or extended by the laudable exertions of our citizens.

Under the existing aspect of our affairs, I have thought it not inconsistent with a just precaution, to have the gun-boats, with the exception of those at New Orleans, placed in a situation incurring no expense beyond that requisite for their preservation, and conveniency for future service; and to have the crews of those at New Orleans reduced to the number required for their navigation and safety.

I have thought also, that our citizens detached in quotas of militia, amounting to one hundred thousand, under the act of March, one thousand eight hundred and eight, might, not improperly, be relieved from the state in which they were held for immediate service. A discharge of them has been accordingly directed.

The progress made in raising and organizing the additional military force, for which provision was made by the act of April, one thousand eight hundred and eight, together with the disposition of the troops, will appear by a report which the secretary of war is preparing, and which will be laid before you.

Of the additional frigates required, by an act of the last session, to be fitted for actual service, two are in readiness, one nearly so, and the fourth is expected to be ready in the month of July. A report, which the secretary of the navy is preparing on the subject, to be laid before Congress, will show at the same time, the progress made in officering and manning these ships. It will show also the degree in which the provisions of the act, relating to the other publick armed ships have been carried into execution.

It will rest with the judgment of Congress to decide how far the change in our external prospects may authorize any modifications of the laws relating to the army and navy establishments.

The works of defence for our sea-port towns and harbours have proceeded with as much activity, as the season of the year and other circumstances will admit. It is necessary however to state that the appropriations hitherto made being found to be deficient, a further provision will claim the early consideration of Congress.

The whole of the eight per cent. stock remaining due by the United States, amounting to five millions three hundred thousand dollars, had been reimbursed on the last day of the year 1808. And on the first day of April last, the sum in the treasury exceeded nine and a half millions of dollars. This, together with the receipts of the current year on account of former revenue bonds, will probably be nearly, if not altogether sufficient to defray the expenses of the year. But the suspension of exports and the consequent decrease of importations, during the last twelve months, will necessarily cause a great diminution in the receipts of the year one thousand eight hundred and ten. After that year, should our foreign relations be undisturbed, the revenue will again be more than commensurate to all the expenditures.

Aware of the inconveniences of a protracted session, at the present season of the year, I forbear to call the attention of the legislature to any matters not particularly urgent. It remains therefore only to assure you of the

fidelity and alacrity with which I shall co-operate for the welfare and happiness of our country ; and to pray that it may experience a continuance of the divine blessings, by which it has been so signally favoured.

JAMES MADISON.

DOCUMENTS

ACCOMPANYING THE MESSAGE FROM THE PRESIDENT OF
THE UNITED STATES. MAY 23, 1809.

Mr. Erskine to Mr. Smith.

WASHINGTON, APRIL 17, 1809.

SIR,

I HAVE the honour to inform you that I have received his majesty's commands, to represent to the government of the United States, that his majesty is animated by the most sincere desire for an adjustment of the differences which have unhappily so long prevailed between the two countries, the recapitulation of which might have a tendency to impede, if not prevent an amicable understanding.

It having been represented to his majesty's government, that the Congress of the United States, in their proceedings at the opening of the last session, had evinced an intention of passing certain laws, which would place the relations of Great Britain with the United States upon an equal footing, in all respects with the other belligerent powers ; I have accordingly received his majesty's commands, in the event of such laws taking place, to offer, on the part of his majesty, an honourable reparation for the aggression committed by a British naval officer, in the attack on the United States frigate Chesapeake.

Considering the act passed by the Congress of the United States on the 1st of March, (usually termed the non-intercourse act) as having produced a state of equality in the relations of the two belligerent powers with respect to the United States, I have to submit, conformably to instruc-

tions, for the consideration of the American government, such terms of satisfaction and reparation, as his majesty is induced to believe will be accepted, in the same spirit of conciliation with which they are proposed.

In addition to the prompt disavowal made by his majesty, on being apprized of the unauthorized act committed by his naval officer, whose recall, as a mark of the king's displeasure, from an highly important and honourable command immediately ensued; his majesty is willing to restore the men forcibly taken out of the Chesapeake, and if acceptable to the American government, to make a suitable provision for the unfortunate sufferers on that occasion.

I have the honour to be, &c.

(Signed)

D. M. ERSKINE.

Hon. ROBERT SMITH, &c. &c. &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE, APRIL 17, 1809.

SIR,

I HAVE laid before the President your note, in which you have, in the name and by the order of his Britannic majesty, declared that his Britannic majesty is desirous of making an honourable reparation for the aggression committed by a British naval officer in the attack on the United States frigate the Chesapeake; that in addition to his prompt disavowal of the act, his majesty, as a mark of his displeasure, did immediately recall the offending officer from a highly important and honourable command, and that he is willing to restore the men forcibly taken out of the Chesapeake, and if acceptable to the American government, to make a suitable provision for the unfortunate sufferers on that occasion.

The government of the United States having, at all times, entertained a sincere desire for an adjustment of the differences, which have so long and so unhappily subsisted between the two countries, the President cannot but receive with pleasure assurances that his Britannic majesty is animated by the same disposition; and that he is ready in conformity to this disposition to make atonement for the

insult and aggression committed by one of his naval officers in the attack on the United States frigate the Chesapeake.

As it appears, at the same time, that in making this offer, his Britannic majesty derives a motive from the equality now existing in the relations of the United States with the two belligerent powers, the President owes it to the occasion and to himself to let it be understood, that this equality is a result incident to a state of things, growing out of distinct considerations.

With this explanation, as requisite as it is frank, I am authorized to inform you, that the President accepts the note delivered by you, in the name and by the order of his Britannic majesty, and will consider the same with the engagement contained therein, when fulfilled, as a satisfaction for the insult and injury of which he has complained.

But I have it in express charge from the President to state, that while he forbears to insist on a farther punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from his Britannic majesty to his own honour,

I have the honour, &c. &c.

(Signed)

R. SMITH.

Hon. D. M. ERSKINE, &c. &c. &c. Washington.

Mr. Erskine to Mr. Smith.

WASHINGTON, APRIL 18, 1809.

SIR,

I HAVE the honour of informing you, that his majesty, having been persuaded that the honourable reparation which he had caused to be tendered for the unauthorized attack upon the American frigate Chesapeake, would be accepted by the government of the United States in the same spirit of conciliation with which it was proposed, has instructed me to express his satisfaction; should such a happy termination of that affair take place, not only as having removed a painful cause of difference, but as afford-

ing a fair prospect of a complete and cordial understanding being re-established between the two countries.

The favourable change in the relations of his majesty with the United States, which has been produced by the act (usually termed the non-intercourse act) passed in the last session of Congress, was also anticipated by his majesty, and has encouraged a further hope, that a reconsideration of the existing differences might lead to their satisfactory adjustment.

On these grounds and expectations, I am instructed to communicate to the American government, his majesty's determination of sending to the United States, an envoy extraordinary invested with full powers to conclude a treaty on all the points of the relations between the two countries.

In the mean time, with a view to contribute to the attainment of so desirable an object, his majesty would be willing to withdraw his orders in council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, will be removed in the proposed negotiation.

I have the honour to be, &c.

(Signed)

D. M. ERSKINE.

Hon. ROBERT SMITH, &c. &c. &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE, APRIL 18, 1809.

SIR,

THE note which I had the honour of receiving from you this day, I lost no time in laying before the President, who being sincerely desirous of a satisfactory adjustment of the differences unhappily existing between Great Britain and the United States, has authorized me to assure you, that he will meet with a disposition correspondent with that of his Britannic majesty, the determination of his majesty to

send to the United States a special envoy, invested with full powers to conclude a treaty on all the points of the relations between the two countries.

I am further authorized to assure you, that in case his Britannic majesty should, in the mean time, withdraw his orders in council of January and November 1807, so far as respects the United States, the President will not fail to issue a proclamation by virtue of the authority and for the purposes specified in the eleventh section of the statute, commonly called the non-intercourse act.

I have the honour to be, &c.

(Signed)

R. SMITH.

Mr. Erskine to Mr. Smith.

WASHINGTON, APRIL 19, 1809.

SIR,

IN consequence of the acceptance, by the President, as stated in your letter dated the 18th inst. of the proposals made by me on the part of his majesty, in my letter of the same day, for the renewal of the intercourse between the respective countries, I am authorized to declare that his majesty's orders in council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next.

I have the honour to be, &c.

(Signed)

D. M. ERSKINE,

Hon. ROBERT SMITH, &c. &c. &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE, APRIL 19, 1809.

SIR,

HAVING laid before the President your note of this day, containing an assurance, that his Britannic majesty will, on the tenth day of June next, have withdrawn his orders in council of January and November, 1807, so far as respects the United States, I have the honour of informing you that the President will accordingly, and in pursuance

of the eleventh section of the statute, commonly called the non-intercourse act, issue a proclamation, so that the trade of the United States with Great Britain may on the same day be renewed, in the manner provided in the said section.

I have the honour to be, &c.

(Signed)

R. SMITH.

By the President of the United States of America.

A PROCLAMATION.

WHEREAS it is provided by the 11th section of the act of Congress, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes; that "in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States;" the President is authorized to declare the same by proclamation, after which the trade suspended by the said act, and by an act laying an embargo on all ships and vessels in the ports and harbours of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing. And whereas the honourable David Montague Erskine, his Britannic majesty's envoy extraordinary and minister plenipotentiary, has by the order and in the name of his sovereign declared to this government, that the British orders in council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next.

NOW THEREFORE, I, JAMES MADISON, President of the United States, do hereby proclaim, that the orders in council aforesaid, will have been withdrawn on the said tenth day of June next; after which day the trade of the United States with Great Britain, as suspended by the act of Congress above mentioned, and an act laying an embargo on all ships and vessels in the ports and harbours of the United States, and the several acts supplementary thereto, may be renewed.

Given under my hand and the seal of the United States,
at Washington, the nineteenth day of April, in the
[U.S.] year of our Lord, one thousand eight hundred and
nine, and of the independence of the United States,
the thirty-third.

JAMES MADISON.

By the President.

R. SMITH,
Secretary of State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
SENATE. JUNE 15, 1809.

IN compliance with the resolution of the senate of the
13th instant, I transmit extracts from letters from Mr.
Pinkney to the secretary of state, accompanied by letters
and communications to him, from the British secretary of
state for the foreign department; all of which have been
received here since the last session of Congress.

To these documents, are added a communication just
made by Mr. Erskine to the secretary of state, and his
answer.

JAMES MADISON.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, DEC. 24, 1808.

SIR,

IN my official note of the 23d September I stated to you
the probability that some alterations might be made in the
orders in council, with a view to adapt their operation more
exactly to the altered state of Europe, and to combine all
practicable relief to neutrals with a more severe pressure
upon the enemy.

As this statement was however only incidental, and as I
at the same time disclaimed any intention of taking advan-
tage of such proposed alterations in the discussions then
pending between us—seeing that if made, they would not
be founded on the admission of the principles for which you

were contending, it was perhaps not necessary that I should trouble you with any further communication upon this subject. But the order, of which I have the honour to enclose a copy, having been passed by his majesty in council on Wednesday last, I am desirous, previous to its actual publication, of explaining to you the grounds on which the more extended alterations, which were in contemplation, have been suspended.

It was intended to relax in a certain degree the regulations of the orders in council, with respect to such of the powers in hostility with his majesty as were not, or should not place themselves in a state of hostility with Spain; but at the same time that this relaxation was extended to other powers, to prohibit absolutely by strict, rigorous, and unmitigated blockade, all intercourse whatever with France.

The adoption by these powers, who were to have been the objects of such relaxations, of the views and projects of France with respect to Spain, does away all assignable ground of distinction between France and those powers; and that part, therefore, of the intended alterations does not take place.

The alterations contained in the enclosed orders in council stand upon a separate ground, and, as I have more than once understood from you that the part of the orders in council which this order goes to mitigate is that which was felt most sorely in the United States, I have great pleasure in being authorized to communicate it to you.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

WILLIAM PINKNEY, Esq.

“ His majesty, in virtue of the powers reserved to him, by two certain acts passed in the forty-eighth year of his majesty's reign, the one entitled “An act for granting to his majesty, until the end of the next session of parliament, duties of customs on the goods, wares and merchandises therein enumerated, in furtherance of the provisions of certain orders in council;” the other entitled “An act for

granting to his majesty, until the end of the next session of parliament, certain duties on the exportation from Ireland, of goods, wares and merchandise therein enumerated," is pleased, by and with the advice of his privy council to order, and it is hereby ordered, that the operation of the aforesaid acts be suspended as to any duties on exportation, granted by the said acts, so far as relates to articles, being the growth, produce, or manufacture of any country, for the time being, in amity with his majesty, and from the ports of which the British flag is not excluded, imported direct from such country into any port or place of the united kingdom, either in British ships or in ships of the country of which such articles are the growth, produce or manufacture.

"And his majesty is further pleased, with the advice aforesaid, to order, and it is hereby ordered, that the said duties on exportation be suspended, as to all goods, wares, or merchandise, which have been, or may be condemned as prize until further orders shall be made therein."

[COPY.]

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, DEC. 28, 1806.

SIR,

I have had the honour to receive your letter of the 24th instant, communicating an order passed by his majesty in council on Wednesday last, and have transmitted copies of these papers to my government.

It is perfectly true, as the concluding paragraph of your letter supposes me to believe; that the United States have viewed with great sensibility the pretension of this government (which as a pretension, the present order plainly re-asserts, without much, if at all, modifying its practical effect) to levy imposts upon their commerce outward and inward, which the orders in council of the last year were to constrain to pass through British ports.

But it is equally true, that my government has constantly protested against the entire system, with which that

pretension was connected, and has in consequence required the repeal, not the modification, of the British orders in council. I have the honour to be, &c.

(Signed)

WM. PINKNEY.

MR. CANNING.

Mr. Pinkney, minister plenipotentiary of the United States at London, to the Secretary of State.

[EXTRACTS.]

"LONDON, MARCH 10, 1809."

"I HAVE received from Mr. Canning a notification of blockade, of which a copy is enclosed."

THE undersigned his majesty's principal secretary of state for foreign affairs has received his majesty's command to acquaint Mr. Pinkney, that his majesty has judged it expedient to establish the most rigorous blockade of the isles of Mauritius and Bourbon; Mr. Pinkney is therefore requested to apprize the American consuls and merchants residing in England, that the isles above mentioned are and must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations and the respective treaties between his majesty and the different neutral powers will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

(Signed)

GEORGE CANNING.

Foreign Office, March 8th, 1809.

Mr. Pinkney, Minister Plenipotentiary of the United States at London, to Mr. Smith, Secretary of State.

[EXTRACTS.]

"LONDON, MAY 1, 1809."

"I HAD the honour to receive on the 25th of March the letter of your predecessor of the 10th of February; and on

the 15th of last month lent. Read delivered to me your letter of the 15th of March."

"Upon the receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday the 17th of April."

"At the close of the conference he told me that my communications were such as would require reflection, and would naturally make him anxious to see me again; and that he would fix as early a day as possible and give me notice."

"Our next interview took place on the 27th of April."

"Mr. Canning read the new order in council, and then proceeded very briefly to suggest the practical alterations which it would introduce."

"I thought I should best discharge my duty by forbearing useless discussion, and by receiving, as it was offered, but without making myself a party to it, an actual improvement, capable of future extension under the auspices of just and friendly sentiments and enlightened policy."

[COPY.]

FOREIGN OFFICE, APRIL 30, 1809.

SIR,

WHEN I had the honour to transmit to you on the 24th of December last, the orders in council passed on the 21st of that month, I referred to that passage of my official note of the 23d of September 1808, in which I stated to you, that "It is not improbable indeed that some alterations may be made in the orders in council, as they are at present framed; alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy," and I at the same time explained to you the grounds on which the design of the larger alterations which had been in contemplation in September was for the time laid aside. By

the order of council which I have now the honour to enclose to you, that design, as explained in my official note of September 23d, is fully carried into execution.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

WILLIAM PINKNEY, Esq.

[L. S.]

[COPY.]

*At the court at the Queen's Palace the 26th of April, 1809.
Present, the king's most excellent majesty in council.*

WHEREAS his majesty, by his order in council of the 11th of November 1807, was pleased for the reasons assigned therein, to order, that "all the ports and places of France and her allies, or of any other country at war with his majesty, and all other ports or places in Europe, from which although not at war with his majesty the British flag is excluded, and all ports or places in the colonies belonging to his majesty's enemies, should from thenceforth be subject to the same restrictions in point of trade and navigation, as if the same were actually blockaded in the most strict and rigorous manner;" and also to prohibit "all trade in articles which are the produce or manufactures of the said countries or colonies." *And whereas*, his majesty having been nevertheless desirous not to subject these countries which were in alliance or in amity with his majesty, to any greater inconvenience than was absolutely inseparable from carrying into effect his majesty's just determination to counteract the designs of his enemies, did make certain exceptions and modifications expressed in the said order of the 11th of November, and in certain subsequent orders of the 25th of November, declaratory of the aforesaid order of the 11th of November and of the 18th of December, 1807, and the 30th of March, 1808.

And whereas, in consequence of divers events which have taken place since the date of the first mentioned order, affecting the relation between Great Britain and the territories of other powers, it is expedient that sundry

parts and provisions of the said orders, should be altered or revoked.

His majesty is therefore pleased, by and with the advice of his privy council, to revoke and annul the said several orders, except as herein after expressed, and so much of the said several orders, except as aforesaid, is hereby revoked accordingly. And his majesty is pleased, by and with the advice of his privy council, to order, and it is hereby ordered that all the ports and places as far north as the river Ems, inclusively, under the government styling itself the kingdom of Holland, and all ports and places under the government of France, together with the colonies, plantations and settlements in the possession of those governments respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbitello and Pesaro inclusively, shall continue and be subject to the same restrictions in point of trade and navigation without any exception, as if the same were actually blockaded by his majesty's naval forces in the most strict and rigorous manner, and that every vessel trading from and to the said countries or colonies, plantations or settlements, together with all goods and merchandise on board, shall be condemned as prize to the captors.

And his majesty is further pleased to order, and it is hereby ordered, that this order shall have effect from the day of the date thereof with respect to any ship, together with its cargo, which may be captured subsequent to such day on any voyage which is, and shall be rendered legal by this order, although such voyage at the time of the commencement of the same was unlawful and prohibited under the said former orders, and such ships upon being brought in shall be released accordingly; and with respect to all ships, together with their cargoes, which may be captured in any voyage which was permitted under the exceptions of the orders above mentioned, but which is not permitted according to the provisions of this order, his majesty is pleased to order, and it is hereby ordered, that such ships and their cargoes shall not be liable to condemnation un-

less they shall have received actual notice of the present order before such capture, or in default of such notice, until after the expiration of the like intervals from the date of this order as were allowed for constructive notice in the orders of the 25th of November, 1807, and the 13th of May, 1808, at the several places and latitudes therein specified.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty and judges of the courts of vice admiralty are to give the necessary directions herein as to them may respectively appertain.

(Signed)

STEPHEN COTTRELL

[COPY.]

WASHINGTON, JUNE 15, 1809.

SIR,

I HAVE the honour to enclose a copy of an order of his majesty in council, issued on the 26th of April last.

In consequence of official communications sent to me from his majesty's government since the adoption of that measure, I am enabled to assure you that it has no connection whatever with the overtures which I have been authorized to make to the government of the United States, and that I am persuaded that the terms of the agreement so happily concluded by the recent negotiation, will be strictly fulfilled on the part of his majesty.

The internal evidence of the order itself, would fully justify the foregoing construction, and moreover it will not have escaped your notice that the repeal has not thereby been made of the orders of the 7th January, 1807, which, according to the engagement I have entered into, on the part of his majesty, is to be abrogated with the other orders, in consequence of the adjustment of differences between the two countries and the confidence entertained of a further conciliatory understanding.

I have the honour to be, &c.

(Signed)

D. M. ERSKINE:

The Hon. ROBERT SMITH; &c. &c. &c.

[COPY.]

DEPARTMENT OF STATE, JUNE 15, 1869.

SIR,

I HAVE the honour to acknowledge the receipt of your note of this day, communicating the order in council, issued by his Britannic majesty on the 26th of April last.

However well persuaded the President may at all times have been, that the arrangement so happily effected by the late negotiation would be strictly fulfilled on the part of his Britannic majesty, he has nevertheless received with satisfaction your renewed assurances to that effect, with the further assurance, founded on official communications to you from your government since the adoption of the order in council of the 26th of April, that that order was not intended to have any connection whatever with the overtures which you had been authorized to make to the government of the United States.

I have the honour to be, &c.

(Signed)

R. SMYTH.

*The Hon. D. M. ENSKINE, Envoy extraordinary
and minister plenipotentiary of his Britannic
Majesty.*

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO BOTH
HOUSES OF CONGRESS, AT THE OPENING OF THE SECOND
SESSION OF THE ELEVENTH CONGRESS. NOV. 29, 1869.

WELLOW CITIZENS OF THE SENATE
AND OF THE HOUSE OF REPRESENTATIVES,

AT the period of our last meeting, I had the satisfaction of communicating an adjustment with one of the principal belligerent nations, highly important in itself, and still

more so as promising a more extended accommodation. It is with deep concern, I am now to inform you, that the favourable prospect has been overclouded, by a refusal of the British government to abide by the act of its minister plenipotentiary, and by its ensuing policy towards the United States, as seen through the communications of the minister sent to replace him.

Whatever pleas may be urged for a disavowal of engagements formed by diplomatick functionaries, in cases where by the terms of the engagements a mutual ratification is reserved; or where notice at the time may have been given, of a departure from instructions; or in extraordinary cases, essentially violating the principles of equity; a disavowal could not have been apprehended in a case, where no such notice or violation existed; where no such ratification was reserved; and more especially, where, as is now in proof, an engagement, to be executed without any such ratification was contemplated by the instructions given, and where it had, with good faith, been carried into immediate execution on the part of the United States.

These considerations not having restrained the British government from disavowing the arrangement, by virtue of which its orders in council were to be revoked, and the event authorizing the renewal of commercial intercourse, having thus not taken place; it necessarily became a question of equal urgency and importance, whether the act prohibiting that intercourse was not to be considered as remaining in legal force. This question being, after due deliberation, determined in the affirmative, a proclamation to that effect was issued. It could not but happen, however, that a return to this state of things, from that which had followed an execution of the arrangement by the United States, would involve difficulties. With a view to diminish these as much as possible, the instructions from the secretary of the treasury, now laid before you, were transmitted to the collectors of the several ports. If in permitting British vessels to depart, without giving bonds not to proceed to their own ports, it should appear

that the tenour of legal authority has not been strictly pursued, it is to be ascribed to the anxious desire which was felt, that no individuals should be injured by so unforeseen an occurrence: and I rely on the regard of Congress for the equitable interests of our own citizens, to adopt whatever further provisions may be found requisite, for a general remission of penalties involuntarily incurred. .

The recall of the disavowed minister having been followed by the appointment of a successor, hopes were indulged that the new mission would contribute to alleviate the disappointment which had been produced, and to remove the causes which had so long embarrassed the good understanding of the two nations. It could not be doubted, that it would at least be charged with conciliatory explanations of the step which had been taken, and with proposals to be substituted for the rejected arrangement. Reasonable and universal as this expectation was, it also has not been fulfilled. From the first official disclosures of the new minister, it was found that he had received no authority to enter into explanations relative to either branch of the arrangement disavowed; nor any authority to substitute proposals, as to that branch, which concerned the British orders in council. And finally, that his proposals with respect to the other branch, the attack on the frigate *Chesapeake*, were founded on a presumption, repeatedly declared to be inadmissible by the United States, that the first step towards adjustment was due from them; the proposals at the same time, omitting even a reference to the officer answerable for the murderous aggression, and asserting a claim not less contrary to the British laws, and British practice, than to the principles and obligations of the United States.

The correspondence between the department of state and this minister will show, how unessentially the features presented in its commencement have been varied in its progress. It will show also, that forgetting the respect due to all governments, he did not refrain from imputations on this, which required that no further communica-

tions should be received from him. The necessity of this step will be made known to his Britannic majesty through the minister plenipotentiary of the United States in London. And it would indicate a want of confidence due to a government which so well understands and exacts what becomes foreign ministers near it, not to infer that the misconduct of its own representative will be viewed in the same light, in which it has been regarded here. The British government will learn, at the same time, that a ready attention will be given to communications, through any channel which may be substituted. It will be happy, if the change in this respect should be accompanied by a favourable revision of the unfriendly policy, which has been so long pursued towards the United States.

With France, the other belligerent, whose trespasses on our commercial rights have long been the subject of our just remonstrances, the posture of our relations does not correspond with the measures, taken on the part of the United States, to effect a favourable change. The result of the several communications made to her government, in pursuance of the authorities vested by Congress in the executive, is contained in the correspondence of our minister at Paris, now laid before you.

By some of the other belligerents, although professing just and amicable dispositions, injuries materially affecting our commerce have not been duly controlled or repressed. In these cases, the interpositions deemed proper on our part have not been omitted. But it well deserves the consideration of the legislature, how far both the safety and the honour of the American flag may be consulted, by adequate provisions against that collusive prostitution of it by individuals, unworthy of the American name, which has so much favoured the real or pretended suspicions, under which the honest commerce of their fellow citizens has suffered.

In relation to the powers on the coast of Barbary, nothing has occurred which is not of a nature rather to inspire confidence than distrust, as to the continuance

of the existing amity. With our Indian neighbours, the just and benevolent system, continued toward them, has also preserved peace, and is more and more advancing habits favourable to their civilization and happiness.

From a statement which will be made by the secretary of war, it will be seen that the fortifications on our maritime frontier are in many of the ports completed; affording the defence which was contemplated, and that a further time will be required to render complete the works in the harbour of New York, and in some other places. By the enlargement of the works, and the employment of a greater number of hands at the publick armories, the supply of small arms, of an improving quality, appears to be annually increasing, at a rate, that with those made on private contract, may be expected to go far towards providing for the publick exigency.

The act of Congress providing for the equipment of our vessels of war having been fully carried into execution, I refer to the statement of the secretary of the navy for the information which may be proper on that subject. To that statement is added a view of the transfers of appropriations, authorized by the act of the session preceding the last, and of the grounds on which the transfers were made.

Whatever may be the course of your deliberations on the subject of our military establishments, I should fail in my duty in not recommending to your serious attention the importance of giving to our militia, the great bulwark of our security, and resource of our power, an organization the best adapted to eventual situations for which the United States ought to be prepared.

The sums which had been previously accumulated in the treasury, together with the receipts during the year ending on the 30th of September last (and amounting to more than nine millions of dollars) have enabled us to fulfil all our engagements, and to defray the current expenses of government without recurring to any loan. But the insecurity of our commerce, and the consequent diminution of the publick revenue, will probably produce a deficiency in

the receipts of the ensuing year, for which, and for other details, I refer to the statements which will be transmitted from the treasury.

In the state which has been presented of our affairs with the great parties to a disastrous and protracted war, carried on in a mode equally injurious and unjust to the United States as a neutral nation, the wisdom of the national legislature will be again summoned to the important decision on the alternatives before them. That these will be met in a spirit, worthy the councils of a nation, conscious both of its rectitude and of its rights, and careful as well of its honour as of its peace, I have an entire confidence. And that the result will be stamped by a unanimity becoming the occasion, and be supported by every portion of our citizens, with a patriotism enlightened and invigorated by experience, ought as little to be doubted.

In the midst of the wrongs and vexations experienced from external causes, there is much room for congratulation on the prosperity and happiness flowing from our situation at home. The blessing of health has never been more universal. The fruits of the seasons, though in particular articles and districts short of their usual redundancy, are more than sufficient for our wants and our comforts. The face of our country every where presents the evidence of laudable enterprise, of extensive capital, and of durable improvement. In a cultivation of the materials, and the extension of useful manufactures, more especially, in the general application to household fabrics, we behold a rapid diminution of our dependence on foreign supplies. Nor is it unworthy of reflection, that this revolution in our pursuits and habits is in no slight degree a consequence of those impolitick and arbitrary edicts, by which the contending nations, in endeavouring each of them to obstruct our trade with the other, have so far abridged our means of procuring the productions and manufactures, of which our own are now taking the place.

Recollecting always, that for every advantage which may contribute to distinguish our lot, from that to which

others are doomed by the unhappy spirit of the times, we are indebted to that Divine Providence whose goodness has been so remarkably extended to this rising nation, it becomes us to cherish a devout gratitude, and to implore from the same omnipotent source a blessing on the consultations and measures about to be undertaken for the welfare of our beloved country.

JAMES MADISON.

DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE OF NOVEMBER 29, 1809.

[CIRCULAR.]

TREASURY DEPARTMENT, AUG. 9, 1809.

SIR,

You will herewith receive the copy of a proclamation of the President of the United States, announcing that certain British orders in council were not withdrawn on the 10th day of June last, and consequently that the trade renewable, on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

The act "to amend and continue in force certain parts of the act entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," passed on the 28th day of June, is therefore in every respect applicable to Great Britain and her dependencies, as well as to France and her dependencies; any thing in my circular of 29th June last, to the contrary notwithstanding.

It results that from the receipt of this, you must in every instance, except as herein after expressed, refuse

clearances for British ports, requiring, as usual, bonds from all vessels bound to permitted ports, in the manner provided by the third section of the act above mentioned. But as many British vessels have or may come into the ports of the United States in consequence of the President's proclamation of the 19th of April last, he directs that you will permit such British vessels to depart without giving bond, either in ballast, or with the cargo on board when notified of the enclosed proclamation: it being however understood that this indulgence shall not be extended to any other vessels than such as are now in the ports of the United States, or such as may hereafter arrive, having sailed from a foreign port before information of the enclosed proclamation shall have been received at such port.

The President also directs, that until a decision from Congress on that unexpected point shall have been obtained, or until otherwise instructed, seizures or prosecutions for supposed contraventions of either the above mentioned act or of the non-intercourse act of 1st March last, arising from acts which would, in conformity with his proclamation of the 19th of April last, have been considered as lawful, shall be suspended in the following cases, viz.

1. All vessels which have entered a British port since the 10th of June last, or which may hereafter enter such port, having sailed for the same, before information of the enclosed proclamation had been received at the port of departure; so far as relates to any forfeiture or penalty which may accrue or have accrued by reason of their having thus entered a British port.

2. All vessels which have arrived, either from British ports or with British merchandise in the United States subsequent to the 10th of June last; and also all vessels which may hereafter thus arrive, having sailed for the United States, before information of the enclosed proclamation shall have been received at the port of departure; so far as relates to any forfeiture or penalty accruing from

having arrived or arriving in the United States from British ports or with British merchandise.

3. All vessels now owned by citizens of the United States, and sailing under the American flag, which, being in a foreign port at the time when the enclosed proclamation will be made known at such port, shall with all due diligence depart therefrom, and return without delay to the United States; so far as relates to any forfeiture or penalty accruing from their arriving in the United States from British ports, or with British merchandise.

In the above mentioned cases of vessels arriving in the United States, and which are for the present exempted from seizure, the vessels and cargoes may be admitted to entry.

The time when the enclosed proclamation shall have been known at the ports of departure respectively, must be ascertained by the best means in your power; and you may refer doubtful cases to this department.

Application may of course still be made in all cases for an absolute remission of the forfeitures and penalties in the manner provided for by law; the instruction herein given to abstain from prosecutions and seizures in the above mentioned cases, being only intended to prevent the expenses and inconvenience to which the parties concerned would otherwise be exposed.

I am, &c.

ALBERT GALLATIN.

The Collector of

By the President of the United States of America,

A PROCLAMATION.

WHEREAS in consequence of a communication from his Britannic majesty's envoy extraordinary and minister plenipotentiary, declaring that the British orders in council of January and November, 1807, would have been withdrawn on the tenth day of June last; and by virtue of authority given, in such event, by the 11th section of the act of Congress, entitled "An act to interdict the commercial

intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," I, JAMES MADISON, President of the United States, did issue my proclamation bearing date on the 19th of April last, declaring that the orders in council aforesaid would have been so withdrawn on the said tenth day of June, after which the trade suspended by certain acts of Congress might be renewed; and whereas it is now officially made known to me that the said orders in council have not been withdrawn agreeably to the communication and declaration aforesaid; I do hereby proclaim the same, and consequently that the trade renewable on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

Given under my hand and the seal of the United States, at the city of Washington, the ninth day of August, in the year of our Lord, one thousand eight hundred and nine, and of the independence of the said United States the thirty-fourth.

(Signed)

JAMES MADISON.

By the President,

R. SMITH,

Secretary of State.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, MAY 27, 1809.

SIR,

ACCORDING to the intimation which I gave to you in our last conference, I have now the honour to enclose to you a copy of the order in council which his majesty has directed to be issued for the purpose of preventing as far as possible any inconvenience or detriment to the merchants of the United States, who may have entered into commercial speculations on the faith of the unauthorized engagements of Mr. Erskine, previously to the notification in America of his majesty's disavowal of those engagements.

Having had the honour to read to you *in extenso* the instructions with which Mr. Erskine was furnished, it is not

necessary for me to enter into any explanation of these points in which Mr. Erskine has acted not only not in conformity, but in direct contradiction to them.

I forbear equally from troubling you, sir, with any comment on the manner in which Mr. Erskine's communications have been received by the American government, or upon the terms and spirit of Mr. Smith's share of the correspondence.

Such observations will be communicated more properly through the minister whom his majesty has directed to proceed to America; not on any special mission (which Mr. Erskine was not authorized to promise, except upon conditions not one of which he has obtained;) but as the successor of Mr. Erskine, whom his majesty has not lost a moment in recalling.

I have the honour to be, &c.

(Signed)

GEORGE CANNING.

To WILLIAM PINKNEY, Esq. &c. &c. &c.

From the London Gazette, May 27.

At the court at the queen's palace, the 24th of May, 1809, present, the king's most excellent majesty in council.

WHEREAS his majesty was pleased, by his order in council of the 26th of April last, to declare certain ports and places of the countries which have been lately styled the kingdom of Holland, to be subject to the restrictions incident to a strict and rigorous blockade, as continued from his majesty's former order of the 11th of Nov. 1807; and whereas advices have been received of a certain *provisional* agreement entered into by his majesty's envoy extraordinary and minister plenipotentiary in America, with the government of the United States, whereby it is understood that his majesty's orders in council of the seventh of January, and of the eleventh of November, 1807, shall be withdrawn, so far as respects the United States, on the tenth of June next.

And whereas, although the said *provisional* agreement is not such as was authorized by his majesty's instructions, or such as his majesty can *approve*, it may already have happened, or may happen, that persons being citizens of the United States may be led by a reliance on the said provisional arrangement, to engage in trade with and to the said ports and places of Holland, contrary to, and in violation of the restrictions imposed by the said orders of the 7th of January and of the 11th of November, 1807, as altered by the order of the 26th of April last; his majesty, in order to prevent any inconveniences that may ensue from the circumstances above recited, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that the said several orders shall be suspended, so far as is necessary for the protection of vessels of the said United States, so sailing under the faith of the said provisional agreement, viz. That after the 9th day of June next, no vessel of the United States, which shall have cleared out, between the 19th of April last and the 20th of July ensuing, for any of the ports of Holland aforesaid, from any port of the United States, shall be molested or interrupted in her voyage by the commanders of his majesty's ships or privateers.

And be it further ordered, that no vessels of the United States, which shall have cleared out from any port of America, previous to the twentieth of July next, for any other *permitted port*, and shall, during her voyage, have changed her destination, in consequence of information of the said provisional agreement, and shall be proceeding to any of the ports of Holland aforesaid, shall be molested or interrupted by the commanders of any of his majesty's ships or privateers, unless such vessel shall have been informed of this order on her voyage, and shall have been warned not to proceed to any of the ports of Holland aforesaid, and shall, notwithstanding *such warning*, be found attempting to proceed to any such port.

And it is further ordered, that after the said 9th day of June next, no vessel of the United States, which shall have

cleared out for, or be destined to any of the ports of Holland, from any port or place not subject to the restrictions of the said order of the 26th of April last, after notice of such provisional agreement as aforesaid, shall be molested or interrupted in her voyage by the commanders of his majesty's ships or privateers, provided such vessel shall have so cleared out previous to actual notice of this order at such place of clearance, or in default of proof of actual notice previous to the like periods of time, after the date of this order, as are *fixed* for constructive notice of his majesty's order of the eleventh of November, one thousand eight hundred and seven, by the orders of the twenty-fifth November, one thousand eight hundred and seven, and of the eighteenth of May, one thousand eight hundred and eight, at certain places and latitudes therein mentioned, unless such vessel shall have been informed of this order on her voyage, and warned by any of his majesty's ships or privateers not to proceed to any port of Holland, and shall, notwithstanding such warning, attempt to proceed to any such port.

And his majesty is pleased further to order, and it is hereby ordered, that the said *several orders* of the seventh of January and eleventh of November, one thousand eight hundred and seven, as altered by the said order of the twenty-sixth of April last, shall also be suspended, so far as is necessary for the protection of vessels of the said United States which shall clear out to any ports not declared to be under the restriction of blockade from any port of Holland, between the ninth day of June and the first day of July next; provided always, that nothing that is contained in the present order shall extend, or be construed to extend, to protect any vessels or their cargoes, that may be liable to condemnation or detention for any other cause than the violation of the aforesaid orders of the seventh of January and the eleventh of November, one thousand eight hundred and seven, as altered by the said order of the twenty-sixth of April last.

Provided also, that *nothing* in this order contained shall:

extend, or be construed to extend, to protect any vessel which shall attempt to enter any port actually blockaded by any of his majesty's ships of war.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretary of state, the lords commissioners of the admiralty, and the judge of high court of admiralty, and the judges of the courts of vice admiralty, are to take the necessary measures herein as to them may respectively appertain.

STEPH. COITRELL.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, MAY 29, 1809.

SIR,

I HAVE received the communication which you did me the honour to address to me on the 27th instant, and will hasten to transmit it to the secretary of state of the United States.

No instructions or information from my government concerning the transactions in America to which your communication alludes having yet reached me, I can only express my concern that the conciliatory arrangements concerted and concluded, as you have done me the honour to inform me, between the American secretary of state, and his majesty's accredited minister at Washington, acting in consequence, and professing to act in pursuance, of regular instructions from his court, are not likely to have all that effect which was naturally to have been expected from them. I have the honour to be, &c.

(Signed)

WILLIAM PINKNEY.

The Rt. Hon. GEORGE CANNING, &c. &c. &c.

Mr. Erskine to Mr. Smith.

WASHINGTON, JULY 31, 1809.

SIR,

I HAVE the honour to enclose to you a copy of an order, which was passed by his majesty in council on the 21th of May last.

In communicating this order, it is with the deepest regret that I have to inform you that his majesty has not thought proper to confirm the late provisional agreement which I had entered into with you on the part of our respective governments.

Neither the present time, nor the occasion will afford me a favourable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to his majesty's wishes; and to the spirit, at least, of my instructions upon that subject; nor, indeed, would any vindication of my conduct, (whatever I may have to offer,) be of any importance, further than as it might tend to show that no intention existed on my part to practice any deception towards the government of the United States.

I have the satisfaction, however, to call your attention to that part of the enclosed order, which protects the commerce and shipping of the United States, from the injury and inconveniences, which might have arisen to American citizens from a reliance on the provisional agreement before mentioned; and I cannot but cherish a hope that no further bad consequences may result from an arrangement, which I had fully believed would have met his majesty's approbation, and would have led to a complete and cordial understanding between the two countries.

With sentiments of the highest respect, &c.

(Signed)

D. M. ERSKINE.

The Hon. ROBERT SMITH, &c. &c. &c.

The Secretary of State to Mr. Erskine.

DEPARTMENT OF STATE, AUG. 9, 1809.

SIR,

I HAVE just received from Mr. Pinkney a letter, enclosing a printed paper, purporting to be a copy of a despatch to you from Mr. Canning, which states among other things that from the report of your conversations with Mr. Madison, Mr. Gallatin and Mr. Smith it appears;

"1st. That the American government is prepared in the event of his majesty's consenting to withdraw the orders

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in council of January and November, 1807, to withdraw contemporaneously on its part, the interdiction of its harbours to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France and the powers which adopt or act under her decrees.

"3d. That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemies' colonies, from which she was excluded during peace.

"3d. Great Britain for the purpose of securing the operation of the embargo, and the *bona fide* intention of America, to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels, as may be found attempting to trade with the ports of any of these powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone, would in fact, raise it with respect to all the world."

I have the honour to request you to favour me with such explanations as your candour will at once suggest, in relation to these imputed conversations.

I forbear to express to you, sir, the surprise that is felt at the extraordinary pretensions set forth in this letter of instruction, and especially at the expectation that this government would, as a preliminary, recognise conditions, two of which are so manifestly irreconcilable to the dignity and interest of the United States. I, however, would remark, that had you deemed it proper to have communicated *in extenso* this letter, it would have been impossible for the President to have perceived in its conditions, or in its spirit, that conciliatory disposition, which had been professed, and which, it was hoped, had really existed.

I have the honour to be, &c.

(Signed)

R. SMITH.

Hon. DAVID M. ERSKINE, &c. &c. &c.

Mr. Erskine to Mr. Smith.

WASHINGTON, AUG. 14, 1809.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 9th instant, informing me that you had just received a letter from Mr. Pinkney, enclosing a printed paper, purporting to be a copy of a despatch to me from Mr. Canning, which states, among other things, "from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

"1st. That the American government is prepared, in the event of his majesty's consenting to withdraw the orders in council of January and November, 1807, to withdraw contemporaneously, on its part, the interdiction of its harbours to ships of war, and all non-intercourse and non-importation acts so far as respects Great Britain, leaving them in force with respect to France, and the powers which adopt, or act under her decrees.

"2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy's colonies, from which she was excluded during peace.

"3d. Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone, would, in fact, raise it with respect to all the world."

The explanations which you request from me upon that subject shall be given with candour; and I will proceed, accordingly, to lay before you an abstract of the communications which I made to his majesty's government, relative to the unofficial conversations which I had

held with Mr. Madison, (then secretary of state) Mr. Galatin, and yourself, at the time and upon the occasion alluded to by his majesty's secretary of state (Mr. Canning) in that part of his instructions to me, of which you inform me you have received a printed copy from Mr. Pinkney.

Upon referring to my despatches, addressed to his majesty's government of the 3d and 4th of December last, in which these communications are detailed, I conclude that the conversations alluded to must have been held some days previous to that period, and were to the following effect.

Mr. Madison (then secretary of state) is represented by me to have urged various arguments tending to prove that the United States had exerted all their efforts to persuade the French government to withdraw their unjust restrictions upon neutral commerce, and that recourse might have been had to measures of more activity and decision against France than mere remonstrances, but that, in the mean time, Great Britain had issued her orders in council, before it was known whether the United States would acquiesce in the aggressions of France, and thereby rendered it impossible to distinguish between the conduct of the two belligerents, who had equally committed aggressions against the United States.

After some other observations, Mr. Madison is stated by me at that time to have added, that as the world must be convinced that America had in vain taken all the means in her power to obtain from Great Britain and France a just attention to her rights as a neutral power, by representations and remonstrances, that she would be fully justified in having recourse to hostilities with either belligerent, and that she only hesitated to do so from the difficulty of contending with both; but that she must be driven even to endeavour to maintain her rights against the two greatest powers in the world, unless either of them should relax their restrictions upon neutral commerce; in which case, the United States would at once side with

that power against the other which might continue its aggressions.

That every opinion which he entertained respecting the best interests of his country led him to wish that a good understanding should take place between Great Britain and the United States, and that he thought that the obvious advantages which would thereby result to both countries were a sufficient pledge of the sincerity of his sentiments.

These observations, sir, I beg leave to remark, were made to me by Mr. Madison, about a month after the intelligence had been received in this country of the rejection by his majesty's government of the proposition made through Mr. Pinkney by the President for the removal of the embargo as respects Great Britain, upon condition that the orders in council should be withdrawn as respected the United States; and his sentiments were, as I conceived, expressed to me, in order that I might convey them to his majesty's government, so as to lead to a reconsideration of the proposition above mentioned, with a view to the adjustment of the differences upon that subject between the respective countries. But I never considered that Mr. Madison meant that the government of the United States would pledge themselves beyond the proposition respecting the embargo as above stated, because that was the extent of the power of the President by the constitution of the United States.

I understood, very distinctly, that the observations of the secretary of state were intended to convey an opinion as to what ought and would be the course pursued by the United States, in the event of his majesty's orders in council being withdrawn.

In these sentiments and opinions you concurred, as I collected from the tenour of several conversations which I held with you at that period.

With respect to the second point, as stated in your letter to be contained in a despatch from Mr. Canning, I beg leave to offer the following explanation.

In the course of a private interview I had with Mr. Gallatin, (the secretary of the treasury) he intimated that the non-intercourse law, which was then likely to be passed by the Congress, might be considered as removing two very important grounds of difference with Great Britain, viz. the non-importation act, as applicable to her alone, and also the President's proclamation, whereby the ships of Great Britain were excluded from the ports of the United States, while those of France were permitted to enter; but that by the non-intercourse law, both powers were placed on the same footing. He did not pretend to say that this measure had been taken from any motives of concession to Great Britain; but as in fact, those consequences followed, he conceived they might be considered as removing the two great obstacles to a conciliation.

He adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he said he knew that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents in time of war, which was not allowed in time of peace, and to trust to the being permitted by the French to carry on such trade in peace, so as to entitle them to a continuance of it in time of war.

As it may be very material to ascertain what "trade with the colonies of belligerents," was, in my conception, meant by Mr. Gallatin, as intended to be abandoned by the United States, I feel no hesitation in declaring that I supposed he alluded to the trade from the colonies of belligerents direct to their mother country or to the ports of other belligerents, because the right to such trade had been the point in dispute; whereas the right to carry on a trade from the colonies of belligerents to the United States, had never been called in question, and had been recognised by his majesty's supreme court of admiralty; and the terms even upon which such colonial produce might be re-exported from the United States had been formally arranged in a treaty signed in London by the ministers plenipotentiary of both countries, which was not indeed ratified

by the President of the United States; but was not objected to as to that article of it which settled the terms upon which such trade was to be permitted.

Such was the substance, sir, of the unofficial conversations which I had held with Mr. Madison, Mr. Gallatin and yourself, which I did not consider or represent to his majesty's government as intended with any other view than to endeavour to bring about the repeal of the orders in council, by showing that many of the obstacles which had stood in the way of an amicable adjustment of the differences between the two countries were already removed, and that a fair prospect existed of settling what remained; since the United States exhibited a determination to resist the unjust aggressions upon her neutral rights, which was all that Great Britain had ever required: but I certainly never received any assurances from the American government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries; nor did I ever hold out such an expectation to his majesty's government; having always stated to them that in the event of his majesty's thinking it just or expedient to cause his orders in council to be withdrawn, that the President would take off the embargo as respected England, leaving it in operation against France and the powers which adopted, or acted under, her decrees, according to the authority which was vested in him at that time by the Congress of the United States, and that there was every reason to expect that a satisfactory arrangement might be made upon the points of the colonial trade which had been so long in dispute between the two countries.

As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the members of the government of the United States relative to it, until my late negotiation; or had ever mentioned the subject to his majesty's government, it having for the first time been presented to my consideration in Mr. Canning's despatch to me of the 23d January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney.

It would be unavailing at the present moment to enter upon an examination of the "pretensions set forth in Mr. Canning's letter of instructions" which you are pleased to term "extraordinary."

I consider it, however, to be my duty to declare that, during my negotiation with you which led to the conclusion of the provisional agreement, I found no reason to believe that any difficulties would occur in the accomplishment of the two former conditions, as far as it was in the power of the President of the United States to accede to the first, and consistently with the explanation which I have before given of the second point: on the contrary, I received assurances through you that the President would comply (as far as it was in his power) with the first condition, and that there could be no doubt that the Congress would think it incumbent upon them to assert the rights of the United States against such powers as should adopt or act under the decrees of France as soon as their actual conduct or determination upon that subject could be ascertained; but that, in the mean time, that the President had not the power, and could not undertake to pledge himself in the formal manner required to that effect.

I received also assurances from you, that no doubt could be reasonably entertained that a satisfactory arrangement might be made in a treaty upon the subject of the second condition mentioned in Mr. Canning's instructions according to my explanation of it in the foregoing part of this letter, but that it necessarily would form an article of a treaty in which the various pretensions of the two countries should be settled.

The third condition you certainly very distinctly informed me could not be recognised by the President, but you added what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition; because it would be impossible that a citizen of the United States could prefer a complaint to his government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch, of the 23d of January (which formed but *one part* of his instructions to me) in the formal manner required, I considered that it would be in vain to lay before the government of the United States the despatch in question, which I was at *liberty* to have done *in extenso* had I thought proper: but as I had such strong grounds for believing that the object of his majesty's government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind, that I should be acting in conformity with his majesty's wishes, and, accordingly, concluded the late provisional agreement on his majesty's behalf with the government of the United States.

The disavowal by his majesty is a painful proof to me that I had formed an erroneous judgment of his majesty's views and the intention of my instructions; and I have most severely to lament, that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries.

It is a great consolation to me, however, to perceive that measures have been adopted by both governments to prevent any losses and obviate any inconveniences which might have arisen to the citizens or subjects of either country from a reliance on the fulfilment of that provisional agreement; and I cannot but cherish a hope, that a complete and cordial understanding between the two countries may be effected.

I beg leave to add that it would have given me great happiness to have contributed to so desirable an object, and to offer you the assurance of the great respect and high consideration with which I remain, &c.

(Signed)

D. M. ERSKINE

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The Secretary of the Treasury to Mr. Erskine.

[COPY.]

WASHINGTON, AUGUST 13, 1809.

SIR,

I do not believe, that in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we have ever misunderstood one another. Yet as from Mr. Canning's instructions lately published by your government, it would seem that some opinions are ascribed to several members of this administration, which they did not entertain, it appears necessary to ascertain whether on any point a misapprehension can have taken place.

I will forbear making any observations on what in the instructions is called the third condition, since it is not asserted that that inadmissible proposition was suggested at Washington.

The points embraced in Mr. Canning's first proposition formed the principal topic of our conversations, relative to a revocation of the orders in council. Yet in the manner in which that proposition is expressed it goes farther than had been suggested by the members of this administration. It is sufficiently evident from the proceedings of Congress, both previous and subsequent to the unratified agreement of April last, that the United States intended to continue the restrictions on the commercial intercourse with France, whilst such of her decrees as violated our neutral rights continued in force, and to remove those restrictions in relation to Great Britain, in the event of a revocation of the orders in council. But that state of things so far as it related to France, was to result from *our own laws*—known or anticipated by your government when they authorized an arrangement; and it was not proposed by us that the continuance of the non-intercourse with France should be made a condition of that arrangement. Whilst on that subject, I will add an observation,

though perhaps not immediately connected with the object of this letter. I think that the object of that proposition, so far as it agreed with your previous understanding of the intentions of this government, has been substantially carried into effect on our part. It is true, that your government might at the date of the instructions have expected from the incipient proceedings of Congress, that Holland would be embraced by the restrictive laws of the United States. Not only however, was the omission nominal, since American vessels were at the time by the decrees of that country refused admission into its ports, but under the same construction of our laws by which the commercial intercourse with Holland was permitted, that with Portugal was also considered as legal in the event of that country being occupied by British troops in the name of the Prince Regent.

It is therefore principally as respects the second condition which relates to the colonial trade, that erroneous inferences might be drawn from the expressions used in Mr. Canning's instructions. Although the subject must have been mentioned here incidentally, and only in a transient manner, as it is one to which I had paid particular attention, and on which my opinion had never varied, I think that I can state with precision in what view I have always considered it, and must have alluded to it.

1. I never could have given countenance to an opinion that the United States would agree, or that it would be proper to make any arrangement whatever, respecting the colonial trade, a condition of the revocation of the orders in council. The two subjects were altogether unconnected, and I am confident that such a proposition was never suggested either by you, or by any member of this administration. Such an arrangement could be effected only by treaty; and it is with a considerable degree of surprise that I see your government now asking not only resistance to the French decrees, but the abandonment of a branch of our commerce as the price of the revocation of the orders in council. This seems to give a new character to a measure which had heretofore been represented as an act of re-

inflation reluctantly adopted, and had been defended solely on the ground of a supposed acquiescence on the part of the United States in the injurious doings of another nation.

2. In the event of a treaty, embracing all the points in dispute, and particularly that of impressments, without which, I trust, no treaty will ever take place, it was my opinion, and I may certainly have expressed it, that if the other subjects of difference were arranged, that respecting the colonial trade would be easily adjusted. I had considered the principles recognised in a former correspondence between lord Hawkesbury and Mr. King, on the subject of the colonial trade, and subsequently again adopted in the treaty negotiated by Messrs. Monroe and Pinkney, as a general basis agreed on under different administrations by both governments, from which neither could now recede, and susceptible only of modifications as to details. The instructions to our ministers in London on that subject, had also been published and were known to your government. I therefore believed that the United States, in the event of a treaty, would still be disposed to waive for the present, in the manner and on the terms contemplated by those instructions, their right to that branch, and to that branch only, of the colonial trade, known by the name of *direct trade*, that is to say, the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which those colonies belonged. The right to a trade between such colonies and the United States generally, and to that in colonial articles between the United States and other countries, never can, or will in my opinion be abandoned, or its exercise be suspended by this government; on the contrary, it is solely in order to secure, by an express treaty stipulation, that trade against the danger of interruption, and thus by a mutual spirit of accommodation to avoid collisions, that the abandonment of the direct branch can ever be assented to.

Permit me therefore to request, that you will inform me, whether you understood me on those two points, as I certainly meant to be understood; namely, that the relinquishment, during the present war, of what is called the direct trade was alone contemplated; and that no arrangement on that subject was suggested as a condition of the revocation of the orders in council.

I have the honour to be, &c.

(Signed)

ALBERT GALLATIN.

Mr. Erskine to the Secretary of the Treasury.

WASHINGTON, AUG. 15, 1809.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 13th instant, in which you have been pleased to say, that although you "do not believe that, in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever have misunderstood one another; yet as from Mr. Canning's instructions, lately published by my government, it would seem that some opinions are ascribed to several members of this administration which they did not entertain, it appears necessary to ascertain, whether on any point a misapprehension can have taken place."

In answer to your inquiries, I have great satisfaction in assuring you, that there appears to have been no misunderstanding respecting the substance or meaning of the conversations which passed between us, as stated in Mr. Canning's instructions alluded to.

After the most careful perusal of your statement of the purport of our conversations, I cannot discover any material difference from the representation which I have made upon that subject to the secretary of state, (Mr. Robert Smith) in my letter to him of the 14th instant, to which I will therefore beg to refer you, as I have therein detailed the substance of the conversation, according to my recol-

lection of it; which is, in every respect, essentially the same as that which you seem to have entertained.

During the conversation which we held respecting the practicability of an amicable adjustment of the differences between the two countries, when the relinquishment by the United States, during the present war, of what is called the colonial trade, was suggested by you, I conceived that you meant, (as you have stated) "the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which those colonies belonged."

I never supposed that you intended to convey an opinion, that the government of the United States would make any arrangement respecting the colonial trade, as a condition of the revocation of the orders in council, the two subjects being altogether unconnected; nor have I ever represented to his majesty's government that such preliminary pledges would be given.

With sentiments of the highest respect, I have the honour to be, &c.

(Signed)

D. M. ERSKINE.

The Hon. ALBERT GALLATIN, &c. &c.

[The other communications, accompanying the last message of the President, will be printed first in the next volume.]

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